

STATE OF NEW YORK COUNTY OF ALBANY

TOWN OF COLONIE

AGENDA SESSION

THE STENOGRAPHIC MINUTES of the above
entitled matter by NANCY L. STRANG, a
Shorthand Reporter commencing at 6:00 PM on
December 3, 2020 at Memorial Town Hall, 534
New Loudon Road, Latham, New York

BOARD MEMBERS:

- PAULA A. MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- MELISSA JEFFERS
- DANIELLE FUTIA
- RICHARD FIELD
- JILL PENN
- DAVID GREEN

ALSO PRESENT:

- MICHAEL C. MAGGUILLI, ESQ., TOWN ATTORNEY
- JULIE GANSLE, TOWN CLERK
- P. CHRISTOPHER KELSEY, COMPTROLLER
- CHRISTOPHER KOSTYUN, CHIEF, EMS

1 MR. MAGGILLI: As you can see we have
2 quite a few personnel matters on;
3 specifically in the Emergency Medical
4 Services Department.

5 The first is appointing a paramedic. Her
6 name is Lauren Nelson. She's going to replace
7 Ray [sic] Luczak; \$54,673 per year. This is
8 subject to a preemployment physical.

9 Next we are appointing Kayla Griessler.
10 She is replacing Jason Berry as another
11 Paramedic at \$54,673. She will begin December
12 7th.

13 Resolution 430C is Christopher Georgia.
14 He's taking the place of Jason [sic] Mira as a
15 Paramedic. The salary is the same. He starts
16 January 4th.

17 Then we go into the Police Department and
18 we are permanently appointing Jonathan W.
19 Madden as a Police Officer. He's taking Joe
20 Burnetto's place; \$58,281. He is starting
21 February 22, 2021.

22 Resolution 430E is appointing Katelyn
23 Rinaldi to replace John [sic] Grisham, Jr. she
24 will start April 1st.

25 Then we have Christopher Pelletier. This

1 is for permanent appointment and he is
2 replacing Greg Heider. he will start April
3 1st.

4 Resolution 430G is Nicholas Carpenter.
5 Mark Mauro retired and he is filling that
6 spot. The salary is the same and he will start
7 April 1st.

8 Then we have Shane Robichaud who is
9 taking Sean [sic] Renaud's place. He will
10 begin April 1st.

11 Next we have Anthony Sidoti. He has been
12 promoted to Police Sargent effective January
13 4th at \$95,809.

14 Next we are promoting John Rockwell to a
15 police Sargent and replacing Tom Breslin, Jr.
16 That salary is \$95,809 and he starts July 5,
17 2021.

18 Resolution 430K is permanently promoting
19 Dan [sic] Bellus to the position of Police
20 Lieutenant on January 4, 2021 at \$107,942.
21 He's going to fill the slot vacated by Bob
22 Winn.

23 Resolution 430L - Tom Breslin is becoming
24 a Police Lieutenant and taking Jay Gerace's
25 spot on July 5, 2021.

1 Resolution 430M is promoting Bob Winn to
2 the position of Deputy Police Chief and
3 replacing John VanAlstyne January 4th. that
4 salary is \$124,715.

5 Resolution 430N is promoting James Gerace
6 to Deputy Chief at \$124,715 effective May
7 31st.

8 MR. GREEN: Why is that marked as a new
9 position? It looks like we have three.

10 SUPERVISOR MAHAN: That's for training
11 purposes -

12 MR. GREEN: Because we already have two
13 Deputies.

14 SUPERVISOR MAHAN: Then it will go back
15 to two.

16 MR. KELSEY: Some of these have papers
17 that have been submitted for retirement in
18 August and were just doing succession
19 planning.

20 SUPERVISOR MAHAN: After that month or
21 two of training, it will go back down to two.

22 MR. MAGGUILLI: Resolution 431 - this is
23 the right-of-way agreement with Cellco
24 Partnership. I would have to ask that again
25 we adjourn this and this time without date.

1 As you may know, Cellco and Verizon have sued
2 the Town. We have retained Dave Rowley's firm
3 to represent us in federal court. So, Cooper
4 Erving Savage is doing that.

5 This is something that my office has been
6 working on for over two years. Allegra has
7 been negotiating with Dave Brennan and trying
8 to get this done for over two years now. It
9 was a real blow to my office when Allegra
10 left. These things are very technical. This is
11 something relatively new.

12 This 5G stuff - what they want to put in
13 falls between the two chapters of the Town
14 Code; 173 and 189. Because of that, if we
15 strictly follow this and dealt with this
16 franchise agreement - right-of-way agreements
17 - we would have to have a public hearing for
18 every single pole that they wanted to put an
19 antenna on and hook up fiberoptics too. Each
20 of these are subject to a permissive
21 referendum. Because this is a hybrid type of
22 thing and they need a special use permit from
23 the Zoning Board, they are already going to
24 have to go through public hearings for each
25 expansion of their system in front of the

1 Zoning Board of Appeals. So, what we tried to
2 do is draft this agreement in such a way where
3 we have it fall strictly within the parameters
4 of Chapter 173. There's even language in the
5 agreement itself that says this is not a
6 franchise agreement, this is not a lease of
7 property and this is not a license. Dave took
8 a look at this and I think he is correct - if
9 nothing else, we should have the permissive
10 referendum portion of it. Even though we are
11 not dealing - we might be able to do it
12 without permissive referendum, because this is
13 not a situation where we are giving someone an
14 exclusive use of this property. Other people
15 can still use it. There are some Comptroller's
16 opinions that support us. We will call for a
17 permissive referendum.

18 As you know, if we do adopt a resolution
19 approving this, the public has 30 days to
20 gather signatures equal to 5% of the people
21 who voted in the last election to put this on
22 the ballot the following November for a vote.
23 That's very difficult to do - put together
24 those types of signatures in that period of
25 time and especially for something like this.

1 What they are planning to do here is put these
2 small cells on the telephone poles and the
3 like - not necessarily telephone poles -

4 MR. GREEN: They don't have to be
5 telephone poles, right?

6 MR. MAGGUILLI: That's right. Pretty
7 much anything. With 5G - once it goes in,
8 it's supposedly going to be fantastic, but
9 you will need one of these antennas every 500
10 feet for it to work properly. It's going to
11 be huge. It's going to make people tons of
12 money. What we can get for this is strictly
13 limited by the federal government. The
14 wireless companies, in my opinion - they have
15 Congress right in their pocket. Every statute
16 that comes out is always in favor of the
17 wireless companies and beats the heck out of
18 the municipalities.

19 To make this even more complicated, back
20 in the 1990's the Town was sued over
21 fiberoptics and lost the case. So, the Town
22 has never charged for fiberoptics and its
23 right away. Now, with the new fiberoptics that
24 are coming out, I think that's changed and I
25 think we now have an opportunity to charge for

1 that.

2 MR. GREEN: New York State passed a law
3 and it now has been changed.

4 MR. MAGGUILLI: We can get up to a \$1.96
5 per foot. That's a lot of money.

6 MR. GREEN: In fiberoptics, we probably
7 have hundreds of miles.

8 MR. MAGGUILLI: Anyway, there was a
9 meeting in my office yesterday between Dave
10 Rowley's office.

11 Jack Spath has taken over for Allegra. He
12 agreed with her.

13 I spoke with Dave Rowley today. He feels
14 very comfortable and confident that this
15 lawsuit is subject to a motion to dismiss.

16 What I found dealing with Verizon
17 particularly, but most wireless companies in
18 general, is they can be very aggressive.
19 They're bullies, they are used to getting
20 their way. We are one of very few
21 municipalities that take them on. We don't
22 roll over and just say yes, okay, whatever you
23 want. They don't like Dick Comey.

24 When we first went to hire him, they sent
25 letters telling me all this stuff about what a

1 crook he was and every time they wrote
2 something bad about the guy, my opinion of him
3 went up. If these people dislike him so much,
4 that means he's costing them money. He has
5 been very good to us.

6 We did test it some years back, if you
7 recall. We went and took a look, to see how
8 much more money we were making since Comey
9 came on board.

10 MR. KELSEY: Yes, I would have to look
11 at it. I don't remember how much it was.

12 MR. MAGGUILLI: It wasn't as much as we
13 had hoped.

14 MR. KELSEY: We have been given more in
15 the leases. I know that.

16 MR. MAGGUILLI: He's making a ton of
17 money. That just gives you a little idea of
18 how complicated this is. Dave's suggestion -
19 and I think he is correct - we're going to
20 pull this to look into this a little deeper.
21 If nothing else, the permissive referendum
22 portion will happen. If 173 does apply, we're
23 not even supposed to negotiate before we get
24 the approval from the Public Works Department
25 and the Planning Department. They have to

1 look at an application first. The
2 applications are very extensive and unless
3 and until we get the approval from those
4 three departments, we're not even supposed to
5 negotiate the contract.

6 SUPERVISOR MAHAN: A couple years back
7 Sheriff Apple came with some of his people.
8 One of the major problems is the lack of cell
9 service in these dead spots. You know if you
10 go down Maxwell and parts of Loudonville and
11 in different little places you're talking and
12 you can't get anybody. It's a public safety
13 issue because if someone has to make an
14 emergency call, they don't have a landline
15 than they are in trouble.

16 MR. MAGGUILLI: Coverage in my house is
17 awful.

18 SUPERVISOR MAHAN: The sheriff is
19 working on the whole Town. He's trying to
20 find all the dead spots in the whole county.
21 This was a few years ago.

22 MR. MAGGUILLI: They tried to blame us,
23 too. The cell companies were telling us if
24 they didn't fill in the dead spots because of
25 Dick Comey, that would cost them too much

1 money. I think that was an argument that they
2 raised at one point. I thought that was a lot
3 of baloney.

4 SUPERVISOR MAHAN: The main issue is
5 public safety. That's the main issue. That's
6 one thing we've been trying to work out with
7 the sheriff and everybody is how to resolve
8 the issue of the lack of cell service in
9 these dead spots.

10 Did you guys talk at all about what
11 direction we are going to go in now that that
12 new law has passed where people have been
13 successful with getting -

14 MR. GREEN: I reached out to Dick and he
15 emailed me a whole bunch of stuff and said
16 let's talk. I wasn't going to call him back
17 just yet. He has already had success with
18 other municipalities. We had a couple of
19 other things on the table with Dick that
20 needed to be ironed out, too.

21 MR. MAGGUILLI: They want to keep it
22 totally separate. They don't want to mix the
23 fiberoptics with this agreement at all. I
24 think we would be losing a strong bargaining
25 position if we agree to that.

1 SUPERVISOR MAHAN: That could be tied up
2 for years between Planning and Public Works.

3 MR. MAGGUILLI: He's talking about 20
4 and 40-year agreements. We get the chance to
5 do this right once.

6 MR. GREEN: The thing is this doesn't
7 preclude the application that we are going
8 for now under 189 in moving it along. They
9 can do that. I don't think anybody is crying
10 for Verizon, though. That is their choice.

11 MR. MAGGUILLI: Let's adjourn this
12 without date.

13 Dave, certainly look into whatever you
14 want, but we have to speak with one voice to
15 these people. Our job, as you know and you
16 know just as well as I do - to get the best
17 deal we can for the taxpayers.

18 MR. GREEN: The right-of-way agreement
19 that your office and Dave Brennan from
20 Verizon negotiated, as it is written out is
21 cut and dry. Because we are taking the
22 permissive referendum out, we have to table
23 it until we get all the pieces in place to do
24 it. Just remind me of the process again. We
25 can pass the Resolution subject to permissive

1 referendum - we can pass it as a Town Board
2 and within 30 days if enough signatures are
3 signed, it would nullify it. If enough
4 signatures are not submitted within the
5 30-day period, it goes into effect
6 immediately.

7 MR. MAGGUILLI: It has to be out of Town
8 Board meeting.

9 MR. GREEN: You said there is an
10 extensive application process though for DPW
11 and the Planning Department.

12 MR. MAGGUILLI: One of the things that
13 we are doing during the two years of
14 negotiating is trying to essentially not
15 circumvent or draft the agreement so that 173
16 does not apply because 173 requires that
17 application process. They have filed an
18 application for one part of Colonie. Then,
19 they withdrew it. For the rest of the Town
20 that's going to essentially be the template
21 they use as they go forward. Each part is
22 different. When you look at Chapter 173 it
23 spells out all the different requirements
24 that the application requires and it is so
25 detailed that it goes down to the size of the

1 maps. The maps have to be 34 inches by 22
2 inches and not less than 50 feet per inch.

3 MR. GREEN: That will be a problem
4 doing that before the Zoning Court of
5 Appeals.

6 MR. MAGGUILLI: It says that we cannot
7 negotiate until that application has been
8 approved as complete.

9 MR. GREEN: But there are multiple
10 applications that they would do. Are you
11 talking about one generic one for -

12 MR. MAGGUILLI: I was hoping to do one
13 generic application. This has just come up
14 recently. We weren't going to do the
15 permissive referendum with the 173 until very
16 recently. Allegra and I and Dave Brennan for
17 that matter - we thought we were all on board
18 with this. The permissive referendum thing
19 came up. The public hearing thing came up.

20 MR. GREEN: So, Verizon would have to
21 come in with an application now for the
22 Planning Department and DPW.

23 MR. MAGGUILLI: That's correct.

24 MR. GREEN: And they would have to
25 approve it so then you could negotiate what

1 we already have negotiated to some degree
2 which is part of the work product and then we
3 could bring it back. How long is that process
4 going to take? I think you alluded to it in
5 the hallway, but why is the permissive
6 referendum a better route than to do it by
7 way of a public hearing? Can't we do one
8 public hearing.

9 MR. MAGGUILLI: I don't think so. The
10 way the statute is written where some would
11 argue that you need a public hearing for
12 every pole. I think we can get around that
13 where you can group together a bunch of poles
14 in a close area and do it that way, but you
15 are still talking about -- we need a public
16 hearing in front of the Town Board and not in
17 front of the Zoning Board. All we would be
18 doing for months is having these public
19 hearings.

20 SUPERVISOR MAHAN: But that's if we went
21 through 173. We wouldn't do that if we went
22 through 189.

23 MR. MAGGUILLI: That's right. The public
24 hearing issue is separate from the permissive
25 referendum -

1 MR. GREEN: So, you do it just one time
2 and cover all of it.

3 MR. MAGGUILLI: Permissive referendum -
4 we could do it one time. The only reason that
5 I hesitated in doing it initially is because
6 they have made the agreement look more like a
7 lease agreement and franchise agreement;
8 hence, the public hearing requirements.

9 MR. GREEN: It's tough to get out of
10 without having some sort of - - we are giving
11 them some interest and something that we have
12 an interest in. It's got to fall into one of
13 those definitions; whether it is a lease, or
14 franchise. What would you call it if it
15 wasn't one of those two.

16 MR. MAGGUILLI: That's it. We call it a
17 license agreement but if anything, it's more
18 like a license agreement. The thing I was
19 relying on primarily was the nonexclusive
20 nature. Most leases are exclusive to one
21 party; the tenant.

22 In the case of the right-of-way, we may
23 not necessarily own the property in the first
24 place. We may have an easement.

25 MR. GREEN: The permissive referendum

1 covers us on every level.

2 MR. MAGGUILLI: It does. The only thing
3 is if this is a lease agreement, why would
4 you do a permissive referendum? How do we
5 explain that?

6 MR. GREEN: We've got to do something.

7 MR. MAGGUILLI: The reason is that this
8 new technology sort of falls between the two.
9 It's not 100% wireless communications. And
10 173 was drafted back when people were talking
11 about cable TV.

12 SUPERVISOR MAHAN: Are there any recent
13 cases where there is anything that we can
14 compare to in order to see how they did it or
15 how they made out?

16 MR. MAGGUILLI: We found a couple of
17 Comptroller's opinions.

18 The nearest thing that I could find is a
19 case down in Long Island where there is water
20 frontage for people to moor their boats. It's
21 just some kind of a post in the ground and
22 they moor their post. The County got sued
23 saying it was a lease really and the
24 permissive referendum was needed. The
25 Comptroller said definitely not. All you're

1 doing is allowing these people to tie up to
2 the dock and it's still open to the public and
3 other people can use it.

4 MR. GREEN: Licenses are generally
5 revocable, but these are permanent.

6 MR. MAGGUILLI: I think this goes to the
7 limit of 20 years.

8 MR. GREEN: Yes, initially it was a five
9 year and then they had five-year extensions.

10 SUPERVISOR MAHAN: What municipalities
11 are there where Verizon has done this before?

12 MR. MAGGUILLI: Typically what happens,
13 Paula, is that Verizon goes into give the
14 municipality the proposed agreement. The
15 municipality knows very little about this
16 extremely technical area of law.

17 MR. GREEN: In speaking with Dave
18 Brennan and all of the places that they have
19 done it, they don't have Comey so they don't
20 have the extensive fee structure. So, they do
21 it on their 173, but they're not subject to
22 this huge escrow so they can get it done
23 quicker and shorter.

24 SUPERVISOR MAHAN: What was Comey's
25 recommendation regarding something like this?

1 MR. GREEN: Comey was quick to bring up
2 the fact that he has a contract with the Town
3 so that he has to review everything at his
4 high price. So, he was not liking it. There's
5 a lot of Comey all around this.

6 MR. MAGGUILLI: The agreement is under
7 189. It's not under 173.

8 MR. GREEN: And a permissive referendum
9 might just push this out of there. That's a
10 good idea.

11 MR. MAGGUILLI: This guy has made us
12 some money and it hasn't cost the Town of
13 penny.

14 MR. GREEN: No, he has but other than
15 that, the Town has a lawsuit that we have to
16 defend.

17 SUPERVISOR MAHAN: These things change
18 with technology. Most places don't have
19 anything to follow. They don't know which way
20 to go.

21 Remember Solar - remember we found out
22 that we weren't allowed to put them on the
23 municipal buildings. There was some kind of
24 law or whatever. Every time you pick up a
25 paper, there's another municipality that's

1 putting them on there. Why are they doing
2 that? We talked to a few of them and they just
3 said we didn't know.

4 MR. GREEN: They play stupid. We're a
5 little bit bigger. We're talking about one
6 million, two million. I was just doing some
7 math in my head. If you put fiber optics
8 under the road, there's 900 bucks. There's
9 all kinds of money there. I don't know how
10 much we have in the Town. There's a lot of
11 miles in the Town. If there's 100 miles of
12 fiber optics, that's over one million
13 dollars.

14 SUPERVISOR MAHAN: Every time something
15 changes - back when 173 was written and cable
16 was a big thing, now everything is different.
17 It's constantly changing. It's extremely
18 difficult.

19 MR. GREEN: I will make that motion and
20 I'll do it down there.

21 MR. MAGGUILLI: Next we have a
22 Resolution awarding the bid for industrial
23 chemicals to all the low bidders and this is
24 a housekeeping Resolution. It's something we
25 do every year. We receive proposals and the

1 contracts are going to the low bidders as
2 shown in Exhibit A.

3 Next we have a Resolution authorizing
4 Doug to advertise for bids and requests for
5 proposals for goods and services. Again, this
6 is where we are changing item number 45 and
7 adding this new schedule to remove Care
8 Environmental.

9 Resolution 434 is authorizing Paula to
10 execute rental agreements for various
11 departments upon the prior approval of our
12 Town Comptroller. This is for equipment
13 rentals for 2021.

14 Resolution 435 is setting a new fee
15 schedule for renting space in Town Hall and
16 Public Ops. There is no change from 2020. The
17 amount is staying the same. Each of the fee
18 schedule Resolutions that you're going to see
19 tonight - there are no changes.

20 Resolution 436 is authorizing Doug to
21 approve the contract renewals and authorizing
22 Paula to enter service agreements with the
23 vendors shown in Exhibit A. Throughout the
24 year we will award contracts and the contracts
25 will have a clause to renew for 2022,

1 etcetera. Rather than having them come back
2 and authorizing each individual renewal, you
3 already approve it when you adopt the initial
4 Resolution. It just allows us to do that at
5 the time of the renewals without having to
6 draft Resolutions.

7 Resolution 437 is for J. Elrott
8 Excavating. This is for our sanitary sewers
9 maintenance program. It was set at 10K and we
10 have spent \$9,010 of the amount budgeted to
11 date. They want to be safe here and increase
12 it to \$20,000.

13 Resolution 438 is a change order down.
14 This was for the water pollution control plant
15 roof access ladder project. The project is
16 complete and the total cost was \$44,600. That
17 is rather than the \$45,600 that was originally
18 authorized. We get a little money back on that
19 one.

20 Resolution 439 is a new fee schedule for
21 Pure Waters. Again, no change.

22 Resolution 440 is authorizing Paula to
23 sign an engineering agreement with GHD
24 Consulting and this is a civil engineering
25 services agreement for 2021. This is for Pure

1 Waters and it's not to exceed \$10,000.

2 Resolution 441 is authorizing Paula to
3 sign an engineering services agreement for the
4 Schuylerville Pump Station Rehab Project. This
5 is with Clough. They are to complete the study
6 phase of the project for an amount not to
7 exceed \$70,000.

8 Resolution 442 is an agreement with
9 Arcadis in connection with engineering
10 services for the Mohawk Valley Water Pollution
11 Control Plant Blower Rehabilitation Project
12 Study. This is 79,278, however, NYSERDA is
13 going to pay \$31,606 of that amount through a
14 grant.

15 Resolution 443 - Pure Waters wants to
16 rent industrial blowers from Vapor
17 Technologies. This is not to exceed \$20,000.

18 Resolution 444 is reappointment by the
19 Town Clerk of the Deputy Town Clerk. That will
20 be Michelle Turcotte. That will be for 2021.

21 Resolution 445 is reappointing Registrar,
22 Deputy Registrar and Sub Registrar of Vital
23 Statistics. Again, that would be Julie,
24 Michelle and Holly.

25 Resolution 446 is reappointing our bingo

1 inspectors and Julie and Michelle will be our
2 bingo inspectors for 2021.

3 Resolution 447 is a new fee schedule for
4 the Town Clerk's office. Again, there are no
5 changes from 2020.

6 Resolution 448 is scheduling Town Board
7 meetings for next year. Our organizational
8 meeting will be January 7th at 6:00 PM. Then,
9 our first regular meeting will be January
10 21st.

11 SUPERVISOR MAHAN: With the
12 organizational meeting, there is no agenda
13 session. We go right into the organizational
14 meeting.

15 MR. MAGGUILLI: Resolution 449 is
16 awarding the bid to Xylem Dewatering
17 Solutions. This is for a 12 inch by 10 inch
18 diesel mounted critically silenced trash
19 pump. They were the sole bidders at \$167,187.

20 MR. KELSEY: Can you confirm what those
21 measurements are again?

22 MR. MAGGUILLI: I have here 12 inches by
23 10 inches.

24 MR. KELSEY: Okay, because there's
25 something on here that says 12 inches by 1

1 inch. I don't know if that makes a
2 difference.

3 MR. MAGGUILLI: Okay, well it is 10
4 inches.

5 Resolution 449 - John Fraser sent an
6 email. The size of the pump is 12 by 10 and
7 not 12 by 1. I think that's our mistake. Sorry
8 about that.

9 Resolution 450 is awarding the bid to to
10 the low bidder, Ti-Sales, Inc. for
11 \$150,172.24. This is for water meters and the
12 water meter reading system and parts and
13 accessories for next year.

14 We have another soul bid on 451. This is
15 awarding the bid to Quality Controls, \$18,614.
16 for various valve actuators for Latham Water.

17 Resolution 452 is entering into agreement
18 for February 1, 2021 to January 31st 2022 not
19 to exceed \$2,426 and this is for the online
20 employee scheduling and workforce management
21 system for the Police Department.

22 Resolution 453 is awarding the bid to
23 traffic signal technology. This is for traffic
24 light repairs for the Police Department next
25 year. Traffic Signal Technologies came in as

1 the sole bid at \$56,000.

2 Resolution 454 is authorizing Paula to
3 sign an ancillary provider agreement with MVP,
4 MVP Select and MVP Affiliates for our EMS
5 Department. This goes with Resolution 455 and
6 456. They are all tied together. This allows
7 us to make a little bit more money. Before, we
8 were prohibited from billing unless you
9 brought people to the hospital and now if we
10 bring them to an urgent care, we can bill
11 them. So, that should have a favorable impact
12 on our EMS budget.

13 Chris, anything you would like to add to
14 that?

15 MR. KOSTYUN: This allows us to bill
16 Medicare and Medicaid directly and the telnet
17 provider. We can fire up an iPad at a
18 residence. That lets us coordinate with the
19 patient, the paramedic and a doctor to make
20 the right decision for a patient.

21 MS. MURPHY: Is that similar to the
22 other program we have with Landmark?

23 MR. KOSTYUN: Similar, but dramatically
24 different.

25 MR. MAGGUILLI: Should we expect more of

1 these?

2 MR. KOSTYUN: Yes. With Landmark it
3 refers to a single physician practice - that
4 we kind of are the eyes and ears of a
5 physician with a relationship. What's
6 different is no one necessarily has a
7 relationship with the patient. We should see
8 other agreements. We have to have an
9 agreement with the urgent care center which
10 will probably come up at the next meeting.

11 MR. MAGGUILLI: That would be a
12 situation where we bill the patients
13 directly, correct?

14 MR. KOSTYUN: It's not a billable
15 service now, though.

16 MR. MAGGUILLI: So, if it's not a
17 billable service, we can't charge anything?

18 MR. KOSTYUN: We can't charge anything.

19 MR. MAGGUILLI: I thought it meant that
20 we couldn't build the insurance company.

21 MR. KOSTYUN: We will also be doing a
22 fee schedule change at the next Town Board
23 meeting to allow for these additional
24 charges.

25 MR. MAGGUILLI: This is part of a

1 federal program called ET3; emergency triage
2 treat and transport program.

3 SUPERVISOR MAHAN: This is no cost to
4 us.

5 MR. MAGGUILLI: This is no cost to us.

6 MR. KOSTYUN: So, 18% of our call volume
7 is nonbillable services. This program
8 actually got delayed a little bit. During
9 Covid, it was pretty much do whatever you
10 want.

11 MR. MAGGUILLI: Resolution 465 is part
12 of this whole deal. It authorizes Paula to
13 enter into a program designed by the federal
14 government. The agreement will be with the
15 centers for Medicare and Medicaid services.

16 Resolution 456 is a memorandum of
17 understanding with Upstate Concierge Medicine
18 doing business as UCM, Digital Health. This is
19 for providing telemedicine services, again
20 under the ET3 model that we just talked about.

21 Chris, anything you want to add to that?

22 MR. KOSTYUN: No, this is where we fire
23 up an iPad and have a videoconference between
24 the paramedic and the patient and a physician
25 to make sure that everybody is making the

1 right decision for the patient.

2 MS. MURPHY: Could we possibly have you
3 explain that downstairs?

4 MR. KOSTYUN: Sure, whatever you want.

5 MS. MURPHY: Just to explain exactly how
6 that will look and how it will work.

7 MR. KOSTYUN: Sure.

8 SUPERVISOR MAHAN: This will go on video
9 and there probably isn't a lot of people down
10 there because of the upgrade in Covid. Most
11 people are staying home. They will watch on
12 the video.

13 MR. MAGGUILLI: Resolution 457
14 authorizes Paula to sign an agreement - a
15 rental agreement from the Promac Group for
16 asphalt materials screener plant for
17 approximately two weeks to make asphalt
18 repair materials. The rental will not exceed
19 \$17,500.

20 Next, we have a series of bond
21 Resolutions. Resolution 458 itself is for
22 \$12,761,280. This is for public improvement
23 serial bonds and this is to refund all or part
24 of prior bonds by issuing these refund bonds.

25 Chris, is there anything you want to add

1 to that?

2 MR. KELSEY: Yes, this is actually only
3 \$9 million standing. Currently, we are in
4 excess of \$600,000 over the remaining 13
5 years of the bond and interest costs are
6 respectively similar to kind of like
7 refinancing your house at a lower interest
8 rate. You pay the same principle, but we will
9 just have a lower interest rate. We've been
10 doing this every couple of years and at this
11 point we have seen a couple of million
12 dollars over the last several years.

13 MR. MAGGUILLI: Resolution 459 is a Bond
14 Resolution for Latham Water for capital
15 improvements. They will be used for water
16 meter replacement, water tank rehab projects,
17 water main rehabilitation projects and one
18 dump truck. Actually, it is an addition of a
19 2 by 4 pickup truck, etcetera. The total bond
20 is \$3,730,000.

21 MR. KELSEY: Mike, I gave the Board
22 before the last meeting a summary of all the
23 Resolutions and what the purposes were. I
24 don't know if you need me to go through them.

25 MR. MAGGUILLI: Does anybody have any

1 questions about Resolutions 459, 460, 461,
2 462, 463, 464, 465 or 466?

3 (There was no response.)

4 Okay, were good on that.

5 Resolution 467 is authorizing the Town of
6 Colonie to transfer money from our reserve
7 fund to pay operating costs and other costs
8 due to the Covid pandemic. This is under
9 Chapter 157 of the laws of 2020, as adopted by
10 the State of New York on August 24th of this
11 year.

12 MR. GREEN: This is on an as-needed
13 basis?

14 MR. KELSEY: Not right now. This is like
15 a precautionary Resolution based on the needs
16 for the rest of the year. We have spent on
17 projects where we have borrowed 3 million and
18 it came in at 2 million. We borrowed on a
19 bond, but we can't pay it back over the next
20 two years. So, essentially we have a million
21 dollars sitting in the bank for 20 years that
22 we can borrow from, use it to cover our cash
23 flow needs and pay back over the next 5 to 7
24 years under the law. We have done well with
25 the RAND. We have done well through December.

1 I think we can end up topping it to some
2 degree.

3 MR. GREEN: What interest rate do we end
4 up with?

5 MR. KELSEY: I would suggest we borrowed
6 the RAND at. That was the market rate for
7 cash flow borrowing that was about at .7%. I
8 would suggest that would be our borrowing
9 rate is. Effectively, we are borrowing from
10 ourselves. So, we are saving the taxpayers
11 money.

12 MR. GREEN: It's nice that the
13 government allows us to do that.

14 MR. KELSEY: It was nice for the state
15 to allow us to do that because we could not
16 do it prior.

17 SUPERVISOR MAHAN: Until we get through
18 December, we won't know exactly where we are
19 at.

20 MR. GREEN: When did that go into law?
21 When do they pass that?

22 MR. KELSEY: August. We've been going
23 back and forth.

24 MR. GREEN: Have we raised that
25 question -

1 MR. MAGGUILLI: That was back on August
2 24th.

3 MR. KELSEY: It was a great idea.

4 SUPERVISOR MAHAN: All the cuts that we
5 made -

6 MR. KELSEY: That has helped us get
7 through to this point. If everybody
8 remembers, we were looking at a potential
9 deficit in excess of around \$7 million. The
10 sales tax came in and that brought us to
11 probably about a 4 to 5 million - probably in
12 the \$5 million range. We borrowed the
13 additional monies from the RAND. We always
14 have a shortage in the fourth quarter. We
15 borrowed about \$1 million more in the RAND.
16 So, I am guessing we will probably need a
17 million to a million and a half to float us
18 through to the end of the year.

19 SUPERVISOR MAHAN: That's very good from
20 where we started.

21 MR. KELSEY: We cut significant amounts
22 and that is coming to fruition. We keep
23 looking at the reports and were pretty
24 confident barring anything that I'm not going
25 to talk about that happens in December or in

1 January or February -- when we get the
2 stimulus.

3 SUPERVISOR MAHAN: I heard on the news
4 earlier that they were working on something
5 that was foolproof. Someone did ask if it did
6 include local government. I think it said
7 state, county and city, but I didn't hear the
8 word Town.

9 MR. KELSEY: I heard local.

10 SUPERVISOR MAHAN: That's what they said
11 - local.

12 MR. GREEN: I have one bittersweet thing
13 and maybe you can read this into the public
14 comment. I don't know if any of you saw the
15 fire, but it was my client who died;
16 47-year-old Jennifer. The parents wrote a
17 really nice letter saying that Kevin Terry
18 and Sargent Ross -- that said the officers
19 really comforted them. They wrote a brief
20 letter. I met with them today to do the
21 estate and they asked if you could read that
22 and because they were so happy with the way
23 we handled it.

24 SUPERVISOR MAHAN: We will do that after
25 the pledge.

1 I just have one more piece of news to
2 report. For those of you who have been with me
3 for little-haul here, we did win the landfill
4 lawsuit. Waterford/Halfmoon had one more
5 possible appeal with the Board of Appeals
6 which is extremely difficult under the
7 circumstances. They really had no grounds. It
8 does not appear that there is any other
9 appeal. We had to wait 30 days.

10 MR. GREEN: When do we get our check?

11 MR. KELSEY: That's why I couldn't
12 answer your question, Dave. If we get the
13 landfill money before the end of the year -

14 SUPERVISOR MAHAN: I think they have 30
15 days however, we met with Matt McGarry who
16 monitors them. He thinks it may be sooner
17 than that. The good news is that it's
18 probably at least 12 million. The bad news is
19 that when we got that upfront payment -

20 MR. KELSEY: All of it is pretty much
21 earmarked.

22 SUPERVISOR MAHAN: Will have it from the
23 afternoon to the next morning and then we
24 have to pay all the bills.

25 Part of the landfill agreement and the

1 operating agreement that the company - the
2 operator - if they built - this is basically
3 area seven, based on how they calculate the
4 size and what the number would be in dollars,
5 that would be like our upfront payment - that
6 all of this was put together for the very
7 reason of being able to manage everything. The
8 first part went and it did pay off - \$23
9 million paid off the general fund deficit that
10 was left in 2007 and the post closure. There
11 was supposed to be money set aside for that.
12 Part of the agreement is that you need to
13 assume that, which is huge.

14 MR. KELSEY: It's in excess of \$13
15 million currently.

16 SUPERVISOR MAHAN: The other part of the
17 agreement is that other than your regular
18 payments that we get is that the transfer
19 station years down the road - those are the
20 extras that we have asked for and didn't
21 budget on. So, this along with the deficit
22 that was left there - unfortunately, all the
23 money was basically taken out of there, but
24 they had a huge debt with the borrowing or
25 whatever they did with it. That debt probably

1 has how many more years?

2 MR. KELSEY: I believe it runs through
3 2033.

4 SUPERVISOR MAHAN: So, the way that
5 occurred was basically they were not in
6 charge of the debt service. The first year I
7 think we had it 2.7 million.

8 MR. KELSEY: Yes, that was about the
9 annual debt service back then it's down to
10 about 1.2 currently.

11 SUPERVISOR MAHAN: Over the years it
12 kept going down. If we manage that with our
13 own budget then we don't have to put that
14 burden on the taxpayer. They did not cause
15 it. It was not their fault and it would have
16 been major impact on taxes. That just wasn't
17 right. So, we have hung in there and we have
18 been paying it and paying it but that
19 contract - that is landfill money - the debt
20 service for the landfill would have to go
21 towards that, plus what we have to pay to the
22 general fund.

23 MR. KELSEY: Right, we have been
24 fronting the debt service. This was supposed
25 to happen three or four years ago. Prior to

1 the lawsuit, this would have happened several
2 years ago. So, the general fund has fronted
3 close to \$7 million in debt service which has
4 to be repaid with the proceeds and then the
5 balance of the proceeds will be used to some
6 of the funding that we just did now and it
7 will be put in escrow to pay down the debt
8 service of some of the remaining debt
9 service. It will not exhaust it, but it will
10 take another big chunk of it.

11 SUPERVISOR MAHAN: Yes, it will pay the
12 whole thing, but it will knock it down. It's
13 great for the Town and it is great for the
14 taxpayer. If we didn't make all the cuts and
15 do all the things that we have done, the
16 burden would have been on them. Even at this
17 point, the burden that should not be on them.

18 MR. MAGGUILLI: And this is it. They are
19 done.

20 SUPERVISOR MAHAN: So, for you guys who
21 have been around, thank you for hanging in
22 there. There has been a lot of
23 misinformation.

24 MR. KELSEY: If anybody does ask, this
25 does not result in any additional fund

1 balance revenue in the general fund. It just
2 provides us cash flow. It's basically a
3 receivable that has been accounted for over
4 the last several years and we are basically
5 collecting on that receivable. It's not going
6 to generate any additional fund balance
7 where we can get raises out of this.

8 MR. GREEN: Because everybody's going to
9 think that.

10 MR. KELSEY: Exactly. It is not a
11 revenue windfall. It is basically repaying
12 cash and providing us the cash flow that we
13 have been funding.

14 SUPERVISOR MAHAN: Everything and every
15 penny that came from that agreement - we went
16 to bond counsel to go over every thing. So,
17 everything was followed to the "T" because
18 people can't just take that money and use it.
19 That kind of stuff is over with. We have had
20 very good advice on how to do things the
21 correct way.

22 MR. GREEN: It's good because it's over.

23 SUPERVISOR MAHAN: It's good because
24 it's over and the debt has been paid.

25 MR. MAGGUILLI: On the other hand, we

1 did get sued by the estate of the gentleman
2 that got killed at the landfill. That was
3 when the chainsaw kicked back and hit his
4 throat. The estate is being represented by E.
5 Stewart Jones. We are indemnified. No matter
6 what, the operation agreement with the
7 landfill - we are indemnified for everything.
8 We did put the insurance company on notice.

9
10 (Whereas the above entitled action was
11 concluded at 6:55 PM)

1
2
3 CERTIFICATION

4 I, NANCY L. STRANG, Shorthand Reporter
5 and Notary Public in and for the State of New
6 York, hereby CERTIFIES that the record taken
7 by me at the time and place noted in the
8 heading hereof is a true and accurate
9 transcript of same, to the best of my ability
10 and belief.

11 Date: _____

12
13 _____
14 Nancy L. Strang
15 Legal Transcription
16 2420 Troy Schenectady Road
17 Niskayuna, NY 12309
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22
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