

**Facilities and Infrastructure Committee
May 15, 2008
Scott Heyman Conference Room**

Approved 7/17/08

Present: L. McBean-Clairborne, Chair; K. Luz Herrera, Vice Chair, D. Randall, D. Kiefer, C. Chock
Staff: T. Rudy, Airport; A. LeMaro, Facilities; W. Sczesny, J. Lampman, Highway Division; S. Martel-Moore, N. Jayne, Administration; C. Nelson, Public Works Administrator; E. Marx, Commissioner of Planning and Public Works; D. Ellis, Weights and Measures; B. Crosby, Health Department; K. Fuller, Deputy Clerk of the Legislature
Guest: James Morrissey, Robert Mastropaolo, Bryan Bayer, C&S Engineers, Inc.; Bernard Hutchins, Town of Ithaca, Guy Gerard

Call to Order

Mrs. McBean-Clairborne, Chair, called the meeting to order at 3:30 p.m.

Additions to Agenda

Ms. Kiefer requested an agenda item be added to discuss the Office for the Aging Lifelong Feasibility Study; the item was added under the Commissioner of Planning and Public Works report.

Deletion from Agenda

Permission was granted to withdraw the following items from the agenda:

- Authorizing a Consultant Agreement with C&S Engineers for Construction Observation Contract Administrative Services for Runway Safety Area Improvements and Obstruction Clearance – Ithaca Tompkins Regional Airport
- Award of Contract – Airport Ambassadors – Ithaca Tompkins Regional Airport

Persons Wishing to Address the Committee

Bernard Hutchins, Hanshaw Road resident, expressed a desire to address the Committee regarding the proposed highway project. It was suggested to postpone addressing the Committee until Mr. Sczesny, Highway Manager, was present.

Chair's Report

Mrs. McBean-Clairborne did not have a report.

Report from the Commissioner of Planning and Public Works

MEGA Alternative Energy Purchase Opportunity

Mr. Marx spoke of the offer of renewable energy presented by the Municipal Electric and Gas Alliance (MEGA). The County greenhouse gas inventory set a benchmark of twenty percent below the 1998 level by 2008 and has not yet achieved this figure. The MEGA offer is one way to improve performance in this regard. Some of the options could be as cost effective, or more cost effective than the purchase of alternative fuel vehicles.

Ms. Kiefer said the renewable energy certificate programs have people put out money for attributes and it is not necessarily clear if the purchase is actually for the development of alternative energy. She noted the Environmental Management Council Energy Committee had unease with earlier proposals and this proposal doesn't look different. She would prefer to have the County develop alternative energy resources for its use, but recognizes it might be cost-prohibitive. Ms. Kiefer would prefer to have more information outlining where the money is spent and what other options

there may be to reach our goals. She said some of the County's equipment operational costs are expensive and she would be more interested to look into the added efficiencies of replacement.

Mr. LeMaro clarified the costs listed would be in addition to the \$.12 per kwh the County presently pays. Ms. Chock expressed an interest in learning what other alternative energy resources are available.

Board of Elections/Bostwick Road Storage Facility

Mr. Marx reported that subsequent to earlier discussions regarding a storage facility at Bostwick Road for use by Facilities and the Board of Elections, it has proven to be cost prohibitive to pursue the project. Original cost estimates were thought to be \$40/sq. ft., however, due to increased materials cost and the requirements for electrical, plumbing, and heating for the voting machines, the cost estimates came in at \$60/sq. ft. In the interim, a temporary rental site has been located that would provide adequately for the machines and provide additional time to review the best alternative for storage within a County facility. Following the review it may still be possible to construct a storage facility under the capital program if it proves favorable. In response to a question from Ms. Kiefer, Mr. Marx said although the potential rental list was not expanded it is though a favorable short-term location has been found.

Air Unit Approval

Mr. LeMaro reported that during a period of staff absences, the purchase of an air unit for the Mental Health building inadvertently did not go through the normal purchasing procedure. He explained that his staff had submitted a purchase requisition and the funds were encumbered. It was thought there was not a bid requirement and the unit, at a cost of \$14,885 was ordered. Subsequently, when submitting the voucher for payment, the lack of bidding was identified. Mr. Squires, Finance Director, requested the appropriate program committee be notified of the error and approve the purchase in this instance. Mr. LeMaro apologized for the oversight and reported that all staff has been properly trained on the fiscal policy and that the Finance Department has agreed to review items and provide additional review of the policy.

Mr. LeMaro reported a similar unit is required in another area of the Mental Health building. He also indicated possible legislation is being reviewed to raise the dollar amount for bidding purposes.

The consensus of the Committee was to give approval of the purchase of the air unit for the Mental Health building in the amount of \$14,885. It is understood that the Division will make sure all measures are in place to avoid an error such as this. Mrs. McBean-Clairborne asked if it would be helpful to voice an opinion with the appropriate State legislators to raise the threshold for spending. Ms. Herrera said she is not in total agreement with regard to raising the threshold.

Federal Highway Funds

Mr. Marx reported there has not yet been any satisfactory result with regard to reinstatement of Federal Highway funds for various projects. Inquiries have been made to Congressmen Arcuri and Hinchey, as well as Senator Schumer, however no new information is available. Dan Lamb, Congressman Hinchey's representative, will be setting up a conference call with the Federal Highway Administration and New York State Department of Transportation in an attempt to restore the funds. If the funds are not restored, the Ithaca-Tompkins County Transportation Council will shift funds from Coddington Road to Warren Road at their June meeting. Mr. Marx said it was hoped there would be better results for the restoration of funding, however, municipalities are being told not to expect it to occur.

Snow and Ice Contract

Mr. Marx reported at the present time the County is contracted by the State for snow and ice removal; presently the level of service provided by the County, due to several factors, is expected to exceed the reimbursement rate provided by the State. As a result, the County has notified the New York State Department of Transportation of these serious concerns, and stated a desire to discontinue service if not fully reimbursed for actual expenses. A meeting will take place next week to further discuss this concern. It was explained the State requires operations at earlier hours than for Tompkins County and that the fuel expenses have also increased. *It was requested to provide the costs of the program and potential deficit.*

Office for the Aging – Lifelong Co-Location Feasibility Study

Ms. Kiefer reported she has had conversations with individuals who express concerns about the possible razing of the 121 West Court Street dwelling as it is the only period structure remaining on that side of the block. She approached Mr. Hawley, Executive Director of Lifelong, and suggested that Holt, who is conducting the feasibility study, contact Historic Preservation persons such as Vicki Romanoff to receive suggestions for maintaining the character of the area. Mr. Marx said the firm is cognizant of the concern.

Weights and Measures

Approval to Seek Bids and Level of Involvement – Van

Mr. Ellis is seeking to bid on a new van for his department. The current van is a 2001 one-ton long-body Chevrolet with 49,000 miles. His request is contingent upon receiving rollover funding set aside each year to provide funding for this purchase. Although initially he did not plan to purchase a vehicle for another year, Administration spoke of the Board of Election’s need for a vehicle to transport voting machines. It was suggested that if the purchase of a new van were made at this time, it would allow the Board of Elections to purchase the present vehicle for machine transport within their budget. Mr. Ellis said it is not possible to purchase a hybrid vehicle due to the size, however, he plans to go to a ¾ ton truck with a regular length body; he has a trailer to carry other material if needed.

Consensus of the Committee was to approve Mr. Ellis’s seeking bids, contingent upon rollover approval, and asked to be notified upon completion.

Neighbor Notification Law Inspection.

Mr. Ellis provided a written report on his annual inspection of businesses selling pesticides. He noted of the businesses that did not have required signage, all are now in compliance. He noted that Cayuga Landscape immediately placed the signage he provided.

Ms. Kiefer inquired whether the informational brochures initially available to the public could be provided to retailers during inspections. Mr. Ellis will inquire whether Cooperative Extension would be able to do so.

Health Department

**RESOLUTION NO. – AUTHORIZATION TO SUBMIT CERTIFICATE OF NEED APPLICATION FOR
55 BROWN ROAD – HEALTH DEPARTMENT**

It was MOVED by Mr. Randall, seconded by Ms. Kiefer, to recommend approval of the following resolution to the full Legislature. Ms. Crosby explained this is a necessary application to submit a Certificate of Need (CON) to the State prior to any deconstruction and construction in areas to be occupied by the certified home health agency and community health services program at the 55 Brown Road site. A voice vote on the motion resulted as follows: Ayes – 4; Notes – 0; Temporarily Out of Room – 1 (Legislator Chock). RESOLUTION ADOPTED.

WHEREAS, Tompkins County Health Department currently operates an Article 36 facility (certified home health agency) and an Article 28 facility (diagnostic and treatment center), and

WHEREAS, New York State Department of Health regulations require the submission of a Certificate of Need application for review and approval prior to construction, now therefore be it

RESOLVED, on recommendation of the Health and Human Services and Facilities and Infrastructure Committees, That the Health Department is authorized to submit a certificate of need application for approval from the New York State Department of Health for the construction and renovations at 55 Brown Road, Ithaca, New York.

SEQR ACTION: TYPE II-20

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Information: The WIC sponsorship decision does not impact the requirement to submit the CON. WIC is not an Article 28 or Article 36 service, therefore is not included in the CON. The CON affects the certified home health agency and the community health services program (clinic services).

Airport

RESOLUTION NO. - AUTHORIZING A CONSULTANT AGREEMENT WITH C&S ENGINEERS, INC. FOR DESIGN AND BIDDING SERVICES FOR HANGAR DEMOLITION – ITHACA TOMPKINS REGIONAL AIRPORT

It was MOVED by Ms. Herrera, seconded by Mr. Randall, to recommend approval of the following resolution to the full Legislature. Mr. Rudy stated this is the old hangar previously used by Taughannock Aviation, dating from the 1940's or 1950's. He said it has outlived its usefulness and demolition of the structure fits with the airport master plan, and would allow additional parking. Ms. Herrera asked Mr. Rudy if he had any knowledge of the airport operating budget, noting at a recent meeting she heard there may be some problem. Mr. Rudy said he was not apprised of any difficulty and is not aware of any problem. Ms. Herrera said she would be watching airport finances closely and hopes to hear more about any possible cash-flow difficulties. Mr. Marx said he is also unaware of any difficulty.

A voice vote on the resolution resulted as follows: Ayes – 5; Noes – 0. RESOLUTION ADOPTED.

It was noted that portions of the building would be reused or recycled as part of the bid process.

WHEREAS, Taughannock Aviation Corporation has just completed the third and final phase of their new hangar and administration facility, and

WHEREAS, the old hangar and administration facility, being in a decrepit and unusable condition, needs to be removed to provide for much need ramp space, and

WHEREAS, the required design and bidding services will include testing for hazardous materials, developing site grading, drainage design, utility identification and relocation, contract drawings, bid specifications and various other administrative tasks, and

WHEREAS, the budget for the actual demolition of said hangar complex is expected to be approximately \$125,000 and will be funded under the federal AIP program with federal, state and local grant monies, and

WHEREAS, the budget for these design and bidding services is as follows:

FAA Share (95.0%)	\$30,400
NY State DOT Share (2.5%)	\$ 800
Local Share (2.5%)	\$ 800
Total	\$32,000

, now therefore be it

RESOLVED, on recommendation of the Facilities & Infrastructure Committee, That the agreement with C&S Engineers for \$ 32,000 be and hereby is approved, subject to FAA and NYSDOT funding being received,

RESOLVED, further, That the local share of \$ 800 will come from the airport's operational budget,

RESOLVED, further, That the County Administrator is authorized to execute the required documents and the Finance Director is authorized to advance payment for these services until reimbursement is received from the FAA and NYSDOT.

SEQR ACTION: TYPE II - 21

Obstruction Clearance Project Discussion

Mr. Rudy opened the floor for questions relating to the Obstruction Clearance Project, noting C&S Engineering personnel were present to provide information. Ms. Kiefer spoke of her discussions with various individuals regarding the portion of the project to be completed by the Army Corps of Engineers, noting that, ironically, at the bidder's meeting individuals thought removal of the cut foliage was an added expense and that they would rather not remove it, with fit in with our original understanding that felled trees and brush be left in place.

Capital Payment Summary Report

The Committee reviewed the report provided and was informed of a correction.

Obstruction Clearance Project Discussion Continued

Mr. Morrissey, of C&S Engineering spoke of how closely he and Mr. Bayer work on the airport projects. He said the information does not include any trees identified within the Sapsucker Woods area and that due to the location being outside the fringe area it may not be necessary to remove them or to have obstruction lights. The Federal Aviation Administration will review the information and make a determination of whether removal is required.

Highway Division

Approval to Seek Bids and Committee Level of Involvement – CR 188, Station Road Culvert Replacement – PIN 3753.86, Town of Danby

Mr. Marx spoke of the importance of moving the project forward during this construction year to assure the funds would not be in jeopardy. Mr. Sczesny said the project is Federally funded and the bid would go to the lowest bidder. Consensus of the Committee is to approve seeking the bid and provide a report once the bid is awarded.

RESOLUTION NO. - AUTHORIZATION TO CONDUCT A PUBLIC HEARING - PROPOSED ACQUISITION OF PROPERTY FOR RECONSTRUCTION OF HANSHAW ROAD, CR 109, IN THE TOWNS OF ITHACA AND DRYDEN AND VILLAGE OF CAYUGA HEIGHTS, PIN 3753.25

It was MOVED by Mr. Randall, seconded by Ms. Chock. Ms. Kiefer inquired how many rights-of-way there were at this time to negotiate. Mr. Marx indicated Mr. Lampman would provide an update upon his arrival. She then expressed a desire to know how far along the project was. Mr. Marx indicated the resolution is normally brought forward indicating Eminent Domain to enable the County to proceed with the project in a timely fashion. At this time, Mr. Hutchins made the following statement:

“Ladies and Gentlemen of the Committee:

“This memo concerns the ROW issue on Hanshaw Road that is the subject of a resolution on your agenda of this date.

“First I remind you that I have a long history of commenting on this overall issue:

- (1) Oct. 19, 2005: Certified letter to County Attorney Jon Wood
- (2) April 18, 2006: Person to be Heard at Legislature Meeting
- (3) July 5, 2006: Person to be Heard at Legislature Meeting
- (4) Dec. 8, 2006: Letter in response to Mr. Wood’s memo to Legislature.
This was sent to Mr. Marx and to the entire Legislature.
(This letter was acknowledged at the Dec. 12, 2006 F&I meeting but it was felt then that “ at this time no action would occur.”)
- (5) Sept. 4, 2007: Person to be Heard at F&I meeting
- (6) Sept. 4, 2007: Person to be Heard at Legislature Meeting

“Today on your agenda (Item 12) I see a Resolution authorizing a hearing on the ROW issue. This resolution contains the standard boilerplate language that you have been using for years. Under the present circumstances, the phrase “dogmas of the quiet past” comes to mind. More specifically, I refer to the two “elephants in the room,” neither of which, to my knowledge, has yet been ushered out. These elephants are, respectively, the early April 2008 ruling of Justice Robert Mulvey with respect to highway ROW-by-use on Coddington Rd. (which has been described as precedent-setting for the entire county), and, the rescinding of federal funding as discussed at the April 15, 2008 Legislature meeting

(Resolution 72). In view of these two monstrous obstacles, today's resolution may be simply, embarrassingly out of order.

"Probably there is a fine line between being helpful and being presumptuous, and I am likely over that line in suggesting here additional wording to be included in your resolution (assuming you go ahead with it), but for what it's worth, here are my suggestions, offered within the "WHEREAS and RESOLVED" format:

"WHEREAS, an April 2008 ruling by Justice Robert Mulvey, Tompkins County Supreme Court, has provided an important interpretation of highway ROW by use, ruling against the County's interpretation, and

"WHEREAS, the federal funding situation for the Hanshaw Road reconstruction project has been reported as being rescinded (Resolution 72 of 2008), and

.....

"RESOLVED, further, That in view of the severe legal and financial complications for this project, that the Legislature take immediate steps to better establish more frequent, more complete, and more candid "sit-down" discussions with the county attorney and staff, and with the residents involved.

"The point about asking for sit-down talks with residents is that in comparison with the way the County is handling this, the Town of Ithaca did a much better job when they had a ROW problem with the Town sewer back in 2001. The problem was that their paperwork went back to 1959 and while they had a ROW for the underground pipe, they had no surface easement to maintain it. John Barney, the Attorney for the Town tried to argue briefly that they did, but wisely sat down when he recognized that this group of residents was not going to be easy to bully. Instead, Supervisor Cathy Valentino and Town Engineer Dan Walker were willing to admit that there were two problems to fix: one with the paperwork, and one with the leaking pipes. Soon enough, both were fixed, and the property owners cooperated with the workers. For example, when asked not to flush between 2PM and 4PM, we didn't! And they let us sit in the van and watch the TV screen as their robot cut out roots and opened up laterals. It was neat. Really – it was!"

Mr. Randall was excused at this time (4:25 p.m.).

Ms. Chock asked why Mr. Hutchins referred to residents not wanting a sidewalk; she inquired how many desired one versus not. He suggested Ms. Chock ask to review the tape of the meeting made by the Highway Division to have a better understanding of concerns, noting there were more than just a sidewalk issue.

Mr. Lampman informed the Committee there have not yet been any negotiations for rights-of-way due to the need to first receive authorization from the State to do so. He noted the resolution is brought forward to enable the County to undertake Eminent Domain if necessary. At this time he is not certain when the State will provide written authorization; all requirements have been met. It may be delayed due to the funding issue that the recent Transportation Improvement Plan (TIP) amendment addressed, which was completed on May 1st.

Ms. Herrera indicated she is not supportive of Mr. Hutchins suggested amendments to the resolution, she would like to see the resolution amended to reflect the fact the work has not yet begun. She recognizes Mr. Hutchins and his neighbors concerns, however, she has to determine how to balance the needs of the community and everyone's public safety to avoid speeding as well.

Mrs. McBean-Clairborne acknowledged Mr. Hutchins desire to have the County have more conversations and involvement with the residents.

Ms. Kiefer spoke of her having attended the public meetings associated with the project and provided a brief history about the walkway proposed. She said she was not certain which homeowners were visited, however, she knows the consultants made every effort to contact residents regarding the various aspects of the project; she thinks the County has done a good job in those contacts. Ms. Kiefer expressed concern that the State has not yet provided the authorization to begin negotiations and while she recognizes the project needs to move forward she is not sure the eminent domain resolution it should be done now. Mr. Marx indicated the County is pushing the State to move all projects so that the

funds would not be in jeopardy. He expects information to come quickly. Ms. Kiefer then said due to the County appealing Judge Mulvey's ruling it would not be appropriate to consider the suggested amendments. Ms. Herrera said if the work has not yet begun she does not believe a public hearing is in order.

On motion, and agreed by consensus of the Committee, the resolution was tabled until June 19th.

WHEREAS, Resolution No. 9 of 2005 authorized an agreement between Tompkins County and the State of New York Department of Transportation to fund design of the reconstruction of County Road 109, Hanshaw Road, (the "Action") in the Towns of Ithaca and Dryden and Village of Cayuga Heights, and

WHEREAS, funding for the Hanshaw Road reconstruction project is in jeopardy unless the project can be moved forward in an expeditious manner, and

WHEREAS Resolution No. 166 of 2007 issued a "Negative Declaration of Environmental Significance" in accordance with SEQRA, and

WHEREAS, Resolution No. 167 of 2007 granted Design and Right of Way Plan approval of the referenced project in accordance with applicable federal regulations and guidelines finding that the individual and cumulative impacts of right of way acquisition are considered total de minimus in nature, and

WHEREAS, negotiations regarding approximately two small fee acquisitions and thirty permanent and fifty-six temporary easements for the project have not yet been completed, and

WHEREAS, the County intends to pursue all means to complete these negotiations in a timely manner without necessitating legal measures, but must provide for the contingency that the properties in question may need to be acquired via eminent domain procedures as a last resort, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the Tompkins County Legislature conduct a public hearing pursuant to Section 201 of the Eminent Domain Procedure Law at the Tompkins County Courthouse on the 17th day of June, 2008, at 5:30 o'clock in the evening thereof,

RESOLVED, further, That the purpose of said hearing is to inform the public and to review the public use to be served by the reconstruction of the Hanshaw Road in the Towns of Ithaca and Dryden and Village of Cayuga Heights, and the impact on the environment and residents of the locality where said project will be constructed,

RESOLVED further, That pursuant to Section 202 of the Eminent Domain Procedure Law, the Clerk of the Legislature shall cause to be published at least ten days and not more than thirty days prior to said hearing a notice of same in at least five consecutive issues of the Ithaca Journal.

SEQR ACTION: Unlisted, Negative Declaration Issued (No further action required)

RESOLUTION NO. - SUPPORTING PINE TREE ROAD PEDESTRIAN ENHANCEMENT PROJECT AND ITS INCLUSION IN THE CORNELL--COMMUNITY TRANSPORTATION INVESTMENT INITIATIVE

It as MOVED by Ms. Herrera, seconded by Ms. Chock, to recommend approval of the following resolution to the full Legislature. Mr. Sczesny reviewed the proposed work that would be a joint project of the County, Town of Ithaca, and Cornell University. Mr. Marx stated the amount to be paid by each party would be negotiated and based on the various elements of the project. A voice vote on the resolution resulted as follows: Ayes – 4; Noes – 0; Excused – 1 (Legislator Randall) RESOLUTION ADOPTED.

WHEREAS, the former Lehigh Valley Railroad bridge over Pine Tree Road in the Town of Ithaca, poses an obstacle to safe pedestrian and bicycle traffic as well as the movement of goods between New York State Route 366 and Cornell University on the north and New York State Route 79 and the East Hill commercial /residential area on the south, and

WHEREAS, the former railroad bridge is now owned by Cornell University and leased by the Town of Ithaca for use as a pedestrian and bicycle trail (East Ithaca Recreation Way), and

WHEREAS, the New York State Department of Transportation is accepting applications for Transportation Enhancement Program (TEP) funding which will fund up to eighty percent of costs for projects that provide facilities for pedestrians and bicycles and/or preserve abandoned railway corridors for pedestrian or bicycle trails, and

WHEREAS, a project to provide multi-modal enhancements along Pine Tree Road between Route 366 and Maple Avenue and also eliminate this obstacle is included in the draft Cornell--Community Transportation Investment Initiative

that is supportive of Cornell's Transportation-Generic Environmental Impact Statement (T-GEIS) and Master Plan and local planning efforts, and

WHEREAS, Tompkins County, Town of Ithaca, and Cornell University staff have initiated planning for a Pine Tree Road Pedestrian Enhancement Project which is eligible for TEP funding, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the Tompkins County Legislature supports submission of a Transportation Enhancement Program funding application to the New York State Department of Transportation for the Pine Tree Road Pedestrian Enhancement Project where Tompkins County would be the local sponsor,

RESOLVED, further, Tompkins County Planning and Highway staff hereby is authorized to develop an agreement between the Town of Ithaca, Cornell University, and Tompkins County by which project funding and future ownership and maintenance jurisdictions would be established.

SEQR ACTION: TYPE II- 21 (No further action required)

Approval of Minutes of April 17, 2008

It was MOVED by Ms. Kiefer, seconded by Ms. Chock, and unanimously adopted by voice vote, by members present, to approve the minutes of April 17, 2008, as presented. MINUTES APPROVED.

Adjournment

On motion the meeting adjourned at 4:55 p.m.