

SPECIAL MEETING

MARCH 3, 2016

BIODIGESTER

Minutes of a Special Town Board meeting on the above date beginning at 3:00 pm in the meeting room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York.

Members Present: Supervisor Politi, Councilman Favro, Councilman Miller, Councilman Doty, Councilman Rand, Laurie Dudley

Others Present: Cathy Edman, Attorney Ron Briggs, Superintendent Larry Straight, Tammy Morgan, Sean Breen, Nick Levenson, Jennifer Knapp McGrew, Doug Ferris,

Supervisor Politi opened the Special Town Board meeting by asking everyone to stand for the Pledge of Allegiance.

Supervisor Politi read the following Public Notices which he stated was properly published and posted.

NOTICE OF TOWN BOARD MEETING

Please take notice, that the North Elba Town Board will hold a Special Board Meeting on March 3, 2016 at 3:00 pm for the purpose of discussing the Biodigester.

Said meeting shall be held at the Town Hall, 2693 Main Street, Lake Placid, NY 12946

Supervisor Politi – Bob this is your meeting.

Councilman Miller introduced the Board and asked everyone to introduce themselves:

Doug Ferris; Civil Environmental Engineer from Willsboro, Jennifer McGrew; interested party, Nick Levenson; Lake Placid High School student, Tammy Morgan; wrote the feasibility study and introduced it to the Board, Sean Breen; Business Developer with BIOfirm,

Tammy Morgan is representing Jen Perry from ANKA who was not available for the meeting and provided a handout with supporting information for the meeting (attached).

Project over Budget

Councilman Miller – At the last meeting we talked about the concerns we have with the cost overruns. I have questions regarding the bill we received from BIOfirm and how that gets paid. We email back and forth but I don't know who talks to who. That is what we are going to talk about today and the reason we have Cathy and Laurie here. Derek and I thought it was important the Board know where we are in the process. We do not want to get ahead of ourselves.

Tammy Morgan – Earlier today we had a meeting to discussed the initial designs being over budget. We asked if other grant funds could be reallocated to increase our budget. I received word that they did approve an increase in our budget by \$120,000. Sean used the new figures to relook at our engineering design and how the funds will be allocated. The first page of the handout is a list form ANCA as to why the allocation of refunding is important for this project.

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Tammy Morgan read page 1 of the handout.

REVISED BUSINESS PLAN - AVAILABLE FUNDS AND LARGER COST SHARE FROM BIOFIRM.

Sean Breen – At the last meeting we presented the results of the Design Study indicating that the budget was higher than the funding. In order to bring the costs in line, BIOfirm agreed it would not charge its direct costs for the engineering construction management commission to the project and would be essentially donated. The combination of that, and a few other things I will talk about, will bring the project pretty close to the amount of funding.

Sean Breen commented on the following points from page 2 of the handout.

Interconnection of Generator with Local Electric Feeder

Sean Breen had a conference call with NYPA and Peter Kroha regarding the interconnection of the generator into the local feeder will not affect its NYPA allocation nor will it create a negative impact on their credits. There will be a direct tie into the meter to determine the project. The issues we were concerned about are a non issue.

Councilman Miller asked if Peter Kroha is comfortable with this project and Supervisor Politi was not surprised that Peter was on the call considering it was NYPA.

Sean Breen – I have not had a subsequent conversation with Peter.

Updated Savings vs Operating Costs

Sean Breen – I met with data collection on what the costs might be and what saving streams we would create. We will go over the figures later but the bottom line is that there will be a net benefit to the Town of \$40,000/year. Tammy and I discussed this yesterday. The NYSERDA requirement for the funding is that you have at least a 50% match.

Tammy Morgan - The percentage wasn't fully defined. When she mentioned 50% they said it is in the realm of what they are expecting.

BIOfirm is at 100% and therefore does not anticipate a problem with the requirements. We have considered design changes and simplifications. We have revised some cost estimates and have reduced capital costs by \$100,000.

Councilman Miller – Is the \$100,000 change in engineering going to create additional man hours?

Sean Breen – At this time, we do not expect it will be appreciable. If you factor in the changes, that brings the estimated capital project within \$150,000 of the available funding. We did an engineering design study which was not based on competitive bidding but data gathering. We feel confident that the project can be brought in within the budget. We heard Derek loud and clear that the project needs to be within budget and save money for the Town.

BIOfirm to conduct in-depth study

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Sean Been - We are confident recommending going forward with more detailed engineering and costing to determine at a higher degree of probability that we can close that gap. That would be done and paid for by BIOfirm. We expect this to be a ten week effort. We will get to a point where we are ready to sign a contract with the modified design.

Councilman Miller – Does that offer us enough time to get this project complete in 2016?

Sean Breen – The project is certainly. However whether it will be completed is up in the air at this point. It may be 70% complete and we decide not to fight Mother Nature.

Capital Costs and Savings/Operating Costs Chart

The Capital Costs are the hard funding dollars. The available funds do not represent the additional NYSERDA Grant Funds of \$220,000. The Capital Cost redesign, less the donated BIOfirm costs, is \$1,325,000. We are at a \$154,779 shortfall.

Based on our discussion with NYPA, the Savings/Operating Costs or Avoided costs will be about .05¢/kwh which the Electric Department will avoid per generation of the plant and will save \$12,782 a year. The fertilizer costs may save \$5,593 and tipping fees of \$68,200 at your current rate of \$62/ton which came from a questionnaire. (Supervisor Politi confirmed with Shannon Porter that we receive \$55/ton)

The Operating Costs of .05¢/kWh is higher than the avoided cost because the unit is generating power that it uses to run. The Digestate Land application and Plant Labor gives a total cost of \$45,793 which is where we get a net surplus of \$40,782.

Councilman Doty – Everything we are buying is self contained. You thought we could gain in competitive bids. The only competitive bids are site prep, concrete and electrical. Do you really think we can close the gap of \$150,000 on that type of work?

Doug Farris – There is also going to be piping between the modular units. Some will be overhead and some underground. You are exactly right, but there is a little more.

Sean Breen – The competitive bidding that can be done on the CHP and the Separator is all on our end. We have engineering data that we use on a day to day basis. We are going to draw up engineering specifications and go out to bid.

Councilman Doty asked about the collection tank for the effluent.

Sean Breen – That is a \$200,000 item and where we can potentially see savings. Can we find a farm that is close enough to haul to and put it in their lagoon? It is a common practice. That is a big question. We can do something to sacrifice the \$40,000 surplus.

Lagoon and the Effluent

Councilman Doty and Sean Breen discussed the possibility of a lagoon at the biodigester site for the effluent which would save money compared to the cost of a tank. It is as easy as digging a

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hole, line it and pour it. The discussion has not been determined as to what they are going to do with the effluent however it is assumed that it will save for 6 months. Building the lagoon will be costly, \$50,000 to \$100,000.

Councilman Miller asked if they have discussed potential customers for the effluent and Tammy Morgan responded that they have not because the primary use was for the athletic fields and the initial feasibility study indicated that the lands are capable of accepting more than what we will produce. There are other options out there but not under contract yet. Sean Breen noted that in the case of the athletic fields, it becomes a negative cost which may be the cost of transporting it.

Sean Breen - The engineering design location changed. Is there any chance of moving it closer? The electrical intertie and the water service is huge.

Biodigester and Lagoon Location

Councilman Miller noted that they discussed putting it by the salt shed but it got nixed because we did not want to buy a new salt shed and Councilman Doty added that the area is a lot busier for the Town Employees and the traffic to the C&D pit that a separate site keeps it away from that. Councilman Favro added that if the salt shed were to be moved then it would require new roads.

Superintendent Straight mentioned the site by the compost pile and Councilman Doty suggested moving the pile in front of the biodigester. Shannon Porter sees a problem with the pile further down because people get stuck there now and they will have to pull them out all day long.

Sean Breen mentioned that the placement of the biodigester would not require someone to drive farther to the pile. Shannon Porter disagreed and said that moving the pile back and put the digester where the pile is now, we are going to have problems with the residences getting stuck back there. Councilman Miller suggested a site visit.

Manage Expectations

Sean Breen – As you look more detailed at projects, it is my professional experience that more often than not you run into things that you did not know about initially. Sometimes the outcome is not what we are hoping it will be. We are willing to put in our time to give a more in-depth look.

Councilman Miller – We appreciate you taking an in-depth look so we know where we are headed.

Councilman Doty and Supervisor Politi asked what is the worst case scenario or the job debt. If we are \$150,000 over and we are the underwriters, who pays?

Cathy Edman – The way the contract reads, it would be the Town's responsibility.

Sean Breen – You are not forced to do this. If indeed you get it done and you have \$40,000/year surplus and there is a philanthropic member of the community that would like to advance the funds to the Town for say a five year period might be option.

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Supervisor Politi – We set-up a video showing the Biodigester with an interview with Tammy to talk about the environmental impact. Lake Placid might be a small market, but the Biodigester is unique.

Sean Breen – In my past, I have organized programs where you can check the box if you want to contribute \$5/month to the cause. We believe that we are close enough to the project that it is worth seeing if we can get there.

Supervisor Politi – I’m sure you have discussed at your meetings the warrantee of the digester. I am thinking about anticipated capital costs going forward.

Sean Breen – My estimate of the operational maintenance and repairs includes refurbishing. We will be tightening up those estimates. We are forwarding the manufacturers warranties on the equipment which is generally one year warrantee.

Supervisor Politi – I have to believe what is going into the digester is certainly going to have a corrosive effect overtime. A concern is that in three years we are looking at a \$300,000 parts replacement cost.

Sean Breen – We will suggest that the maintenance reserve should be handled for those kinds of things. We initially started the project with a long shipping container style digester and at this stage we believe that a concrete tank style is a better solution. It doubles the volume of the other which gives more room for expansion.

Supervisor Politi – On paper everything looks good but after 3 to 10 years how ambilitating is the cost?

Sean Breen – We will strongly recommend that you enter into a long term O&M service agreement on the combined heat and power unit which is the biggest maintenance item. The engine manufacturers all offer “x” cents per kWh and they will take care of maintenance and repairs and the overhaul on the equipment.

Supervisor Politi referred to the chart that shows the avoided electric costs at .05¢/kWh is only \$13,000 and questioned the maintenance company getting .02¢/kWh then they are not getting paid very much. Sean Breen stated the cost is already worked into that figure.

Doug Farris stated that the one year warrantee is common law for NYS parts and labor. You can pay for extended warrantees.

Paying deliverables; Cathy Edman, North Elba Budget Officer

Sean Breen stated BIOfirm has a bill that needs to be paid.

Tammy Morgan referred to the chart in the handout stating that this is a copy from the contract of our deliverables that we need to come up with in order to get our money. NYSERDA has already approved the engineering designs that have been sent to them.

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Councilman Miller – The \$20,000 is coming out of the Grant money which is at the County. How is that paid?

Tammy Morgan explained that we have our first deliverable which is the engineering report that has been approved. (Marked “complete”) .When we get to the next point, Permits and Approvals, we submit them to ANCA for review before they get sent to NYSERDA who has a ten day review. They get back to us with a yes or no. Tammy continues to read and explains the billing protocol from the handout. She explained that Essex County is the project “Owner”, the Town of North Elba is the “Contractor” and BIOfirm is the ‘Sub-Contractor”. Anytime we have a deliverable, we have to hand-in two forms to get paid.

Councilman Miller asked Tammy to define “We”; NYSERD, You, Sean, Essex County?

Tammy Morgan - It is ultimately North Elba. You need to define who that point person will be and explain it in detail how the forms are submitted to Lynn Donaldson at Essex County. Anytime we have a cost share, as in this meeting now, includes the wages of the people in the room. Those hours are submitted in the deliverables.

Supervisor Politi stated Cathy Edman will be doing this for which Cathy clearly stated she has not seen any invoices. Tammy Morgan will send her digital forms and explained to Cathy what she needs to know what pages to fill out and what type of payments are applied to what.

Cathy Edman – Correct me if I am wrong, when I was reviewing the agreements it sounds like the Town has to keep track of everything because when and if this project gets audited they are going to come to us because we are the recipient of a large amount of that grant. Essex County will get audited for their grant however they are a pass-through to us. I need to have documentation of everything; deliverables, invoices, certified payroll expenditures, everything that is related to reimbursement.

Tammy Morgan – I just got the contract between you and BIOfirm and this one all in digital form and will make sure you get a copy. I don’t need to be the middleman. You will have these blank forms and nothing will get paid unless the invoicing material is complete.

Councilman Miller – We need to get the BIOfirm invoice to Cathy. She needs to be the depository of all things.

Cathy Edman – Who has the engineering final report from BIOfirm for the bill we are paying? Has the Town seen a copy of that yet? I don’t want to be hardnosed about it but nothing is going to get paid unless I have all the documentation. I want all the i’s dotted and t’s crossed. If we don’t have evidence that the work was done then we can’t pay the bill.

Tammy Morgan – I am not sure if there is a signed copy of the deliverable. They sent it to me.

Sean Breen – If they approved it from NYSERDA then I think that is all you need.

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Councilman Doty – At the previous meeting, Jen stated that there was \$320,000 that could be reallocated and we got \$220,000. Do you know what happened to that other \$100,000?

Tammy Morgan– There were initially nine projects put together on this multi-contract. ANCA is the organization that is holding them together and is in charge of the whole pot. Two of the projects were no longer happening and they took the funding and divided it equally proportionately.

Cathy Edman – Is NYSERDA sending an updated payment schedule?

Tammy Morgan – We are going to submit an updated deliverable schedule. They keep revising the schedules and I send the deliverables back with changes in the dates. I am waiting for them to give that back.

Cathy Edman – I understand that. However, in the original NYSERDA Agreement they had a schedule detailing the dollar amounts. You are saying we have an extra \$220,000 allocated to our grant. Where does that show?

Tammy Morgan – They have not allocated it yet because they assume that we know where it needs to go. I am guessing most of that will go into the construction submittal.

Supervisor Politi – She needs clarification.

Cathy Edman – We have to be audited and as an auditor, they will say you got approved for this and now you are spending \$220,00 more so where is that added. NYSERDA has to have something.

Sean Breen – Essex County has a contract with NYSERDA. The Town does not.

Cathy Edman – I understand that. We are receiving the funding through Essex County. From an auditing standpoint, the Town will have to be audited.

Sean Breen – You have an agreement with Essex County on this project. Whatever auditing requirements they are aware of.

Tammy Morgan – We have a point person at NYSERDA and we will make sure you have a direct line into her. ANCA is also our NYSERDA go-between person. Those are the people you are going to ask. Tammy read the Multi-County Billing Protocol and explained to Cathy what forms are used to submit for payment. The forms go to Lynn Donaldson and the County distributes the money.

Cathy Edman – Is the expectation that the Town is going to be paying BIOfirm upfront and then getting the money afterwards or are we to wait until we receive the funds and then pay BIOfirm.

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Sean Breen – BIOfirm is in essence providing construction funding. We front the money and then we bill the Town. We bill NYSERDA and NYSERDA gives the money that comes back to us.

Cathy Edman and Sean Breen agreed that BIOfirm is waiting to be paid until grant money is received by the Town.

Questions about Invoicing

Councilman Doty – I am confused about the submitted \$20,000 for 3.1: Anaerobic Digester System Engineering Design and Report. We still have questions on the lagoon.

Sean Breen – In a perfect world, we would end up modifying the schedule. I don't know if it is even necessary. We are extending engineering reports to include this next step that BIOfirm is paying for it. The "GO/NO Go DECISION" is not until after we do our addition. We are going to get paid \$20,000 and that is it. We are going to do that extra work on our end.

Councilman Doty – Down the road we will see the complete design.

Sean Breen – At that point you make a go or no-go decision.

Supervisor Politi – I assume, if we have to make that decision on a no-go it is our cost on the grant.

Tammy Morgan – That is NYSERDA's call.

Supervisor Politi and Cathy Edman explained that the Town would be on the hook for the \$20,000 if the project did not go forward. That is how grants are written.

Sean Breen – Before you start digging dirt, NYSERDA will not hold you to that.

Cathy Edman – There is a 10% retainage written into the agreement. Is that applied to each step? When the request is sent to NYSERDA through Essex County for \$24,935 they are going to send back \$20,000 to give to BIOfirm. Is that going to be reduced by 10% retainage?

Sean Breen – My understanding is that the retainage is at the end. 10% is held until the commissioning report is issued with the last chunk of money.

Cathy Edman – That is not how the Airport projects are run. However, it is a different entity.

Tammy Morgan – Should we do a different invoice when the engineering and re-design is done? Should the Town pay now or after it is started in April?

BIOfirm is hopeful that they would get paid now and Supervisor Politi agreed that payment needed to be paid now and not later.

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Sean Breen noted the schedule needs to be updated at some point and they can update their contract with the Town to reflect the new design.

Councilman Doty asked how we are with DEC permits and approvals and Doug Farris stated he hasn't talked to them in a year but did not see any red flags.

Cathy Edman went over all the contract she would need according to the grant for which Doug Farris said he is a sub-contractor to BIOfirm and doing things gratis. Cathy stated because I am an auditor, you are still a sub-contractor to the whole project so we need to have an agreement in place. If he is contributing his hours and we are using that as a cost then there has to be documentation.

Sean Breen said he could do that in the form of a letter and NYSERDA would not require more. He stated he has worked with them on a few projects.

Doug Farris stated there are emails documenting my hours. Technically, I have no contract with anybody.

The DEC gave permission to BIOfirm to go forward with the design. They submit registrations rather than permits.

Next Step

Councilman Miller asked what the next step will be and Tammy Morgan stated she worked with Sean to come up with a list of deliverables and would like Sean to walk us through them.

Sean Breen stated rather than take up time in the meeting, I need to sit down and give it more thought.

Councilman Miller – In order for you to do that, we need to define the exact location of the Biodigester. I suggest a site visit with Larry Straight.

Tammy Morgan would like to attend the meeting

ADJOURNMENT

Councilman Rand moved and Councilman Favro seconded the motion to adjourn the Special Board meeting at 4:10 pm.

Respectfully submitted,

Laurie Dudley, Town Clerk