

**LEELANAU COUNTY BOARD OF COMMISSIONERS
SPECIAL SESSION – Thursday, August 1, 2019**

Tentative minutes.

Proceedings of the meeting are being recorded and are not the official record of the meeting; the formally approved/accepted written copy of the minutes will be the official record of the meeting.

Meeting called to order by Chairman William J. Bunek at 12:30 p.m. Today's meeting is being held at the Government Center, 8527 E. Government Center Drive, Suttons Bay, Michigan.

The Pledge of Allegiance to the Flag of the United States of America was led by Chairman Bunek, followed by a moment of silence.

Roll Call:	District #1	Anthony Ansorge	PRESENT
	#2	Debra L. Rushton	PRESENT
	#3	William J. Bunek	PRESENT
	#4	Ty Wessell	PRESENT
	#5	Patricia Soutas-Little	PRESENT
	#6	Carolyn Rentenbach	PRESENT
	#7	Melinda C. Lautner	PRESENT

Guests present.

Public Comment:

► Steve Mikowski, Lake Leelanau. Mikowski read from a prepared statement, saying he was trying to understand the financing and the expenditures required (for the proposed project). He hasn't seen any documents stating outstanding surplus funds in every County account that could be used to pay (for the project). Mikowski also commented on the buildings being "overbuilt," and also commented on how these projects will cost us "dearly." He urged Commissioners to consider every surplus fund the County has, irrespective of what the moneys will be used for, and not jump to the conclusion of borrowing money again. More comments followed on the building process for both county buildings and (seeking outside financing). He urged Commissioners not to use tax dollars to expend on what we knew was poor construction.

► Russ Borst, Vice President of Service, and Jamin Nyhuis, Project Manager, of Hurst Mechanical. Borst read from a statement, which was in response to the Board of Commissioners July 16, 2019, Special Session that approved the recommendation by E3, Inc., to hire A.B.I. Mechanical. Borst stated his firm exclusively uses trained union labor, and are affiliated with the same local union, as their competitor. Borst contended that his firm was portrayed as not being a local contractor; however, years ago Hurst had acquired the former Arms and Cole firm. Hurst has maintained an office in Traverse City for over 10 years, completing projects of this size and larger, over the last 100 years. Hurst has also partnered with a local sheet metal contractor, Cook Sheet Metal (CSM), which makes up approximately a third of the project. CSM is also a union shop

from the Kalkaska area. Both Hurst and CSM have employees that live within Leelanau County. His firm worked several hours on the bid and is quite comfortable with the numbers, schedule, and the milestones as laid out in the plans and specs. Their name and reputation means everything to them, which is why they are present today. They do not understand why Leelanau County should spend another \$200,000.00 to get the same results. Borst asked and Chairman Bunek noted Commissioners do not respond to public comment.

Discussion/Action Items –

HVAC Finance Recommendation:

Treasurer John A. Gallagher III was present. Commissioner Wessell said there seems to be a difference of opinion on what occurred; there was some concern that there was some miscommunication from E3. County Administrator Chet Janik noted that will be covered under Action Item #2, Government Center HVAC Recommendations.

Commissioner Rushton asked Gallagher, for the benefit of the public and Commissioners, please review the surplus funds we have available to us, and the options and recommendation you have. Gallagher responded that as to the financing options presented at the July 16, 2019, Special Session, it was his recommendation the County partially finance this through a third party, in consideration for the operations and level of service it takes to continue the performance. During this project's time, we would pledge \$1.5 million from our "surplus," by pulling from the fund balance of the General Fund, \$750,000.00, and additionally \$750,000.00 from the Delinquent Tax Revolving Fund (DTR). Those funds are slated, based on Board approval, to get the project started.

Gallagher said he also reviewed feedback he received from this Board on how to structure this in reviewing our options – we had a number of options, from bonding the entire project at 2.5 percent, to having (callable bonds) at 2.86 percent. What he is presenting today is a private issue bond through Huntington National Bank; these bonds are slated to be \$2.1 million, the balance between the proposed contractual expenditures that will occur, and \$1.5 million we are pledging. Furthermore, using Huntington's bond underwriters, Dickinson Wright PLLC, the \$15,000.00 cost is cheaper than Miller Canfield by \$2,500.00, which is why he (is recommending) Dickinson Wright as counsel. Gallagher said there was a request to close later in the fiscal year, with a pending closing date of December 13. He said this is advantageous for the County, that we won't be sitting on a bond we aren't using, but interest rates are projected to be cut by the feds and banks are usually "hungry" at the end of the year, so he expects an even lower rate at the end of the year than what is being proposed today.

Gallagher said this will have to go through the same process as he had outlined during the last meeting, with a public notice. The bond counsel advised him the County cannot call them prior to when the project is finished. If we were to repay the bonds prior to the finish date, the IRS would question whether or not we needed the bonds

which would be an issue. This will be disclosed and sent to the IRS as part of our closing statements. We have it scheduled that in 2020 we can begin to make payments and prepayments with no penalty. Gallagher noted he had handed out a revised schedule that replaces page four in the packet

(https://www.leelanau.cc/downloads/copy_of_rate_lock_requests_county_of_leelanau_debt_service_schedule_rev_08012019.pdf).

Gallagher said during this 10-year period, we would have an interest expenditure of \$176,000.00, the outstanding amount the County would incur for this project, (which doesn't include legal or closing fees), if we chose not to make prepayments. Gallagher said he feels this is the best option for the County, giving us a variable rate which in this climate is to our benefit. It is a fixed calculation – liber plus 20 to 30 basis points from Huntington. Gallagher continued to comment on projections, saying we will have the funds available at the end of the year to continue the project and also start making our optional payments on December 31, 2021. He referred to the schedule (https://www.leelanau.cc/downloads/copy_of_rate_lock_requests_county_of_leelanau_debt_service_schedule_rev_08012019.pdf), and added he can confidently say we will not see the full exposure of the projected \$176,000.00 in interest. It is up to the Board whether to proceed with the project. This is his recommendation to move the project forward.

Commissioner Ansorte referred to the draft motion, and asked for concurrence from Gallagher –

That the Leelanau County Board of Commissioners approve the HVAC Project for the Leelanau County Government Center in an amount not to exceed \$3,685,068.00, with funding as follows:

- *Transfer of \$750,000.00 from the Delinquent Tax Revolving Fund (DTR), #516, to the General Fund, #101*
- *Transfer of \$1,585,068.00¹ from the General Fund, #101, to the Capital Projects Building Fund, #470, and*
- *Approve a \$2,100,000.00 Limited Tax General Obligation Bond, and that the Chairman be authorized to sign the Term Sheet as presented."*

Ansorte said he confused on the numbers. Discussion ensued. Janik noted Gallagher has researched this, and we have talked with several bond counsels. Janik said he had met with Gallagher and County Clerk Michelle L. Crocker and they are in agreement with the option; Janik said he also talked with the County's principal auditor, Steve Peacock of Rehmann, who had actually recommended this concept of doing this in June. Gallagher said he, too, reached out to the County's auditors as to the next steps

¹*+\$750,000.00 = \$1,585,068.00 from the General Fund, per County Clerk

on how to fund this internally. The actual from the General Fund should be \$835,068.00.

Commissioner Rushton said when we transfer the \$750,000.00 from the DTR and the \$835,000.00 from the General Fund, the balance in those accounts, how much is it and what is that money set aside for? Gallagher responded the DTR fund balance will be used to maintain settlement numbers, which is typically a five-year average of the amount we paid out to the local jurisdictions for delinquent taxes, without having to borrow. With the General Fund, depending on the time of year, the balance could dip down to \$5 or \$6 million until we start our collections and in October when the funds come in. Depending on the time of year, the two different funds act independently. They will not inhibit our current services and allow us to maintain those services for future projects.

Commissioner Rushton said due to the fact we are “squirrelling away” the money for the anticipated settlement that will come over time, in an effort not to have to go out and borrow, in the event we have to borrow for settlement, her question is can more of those dollars be used for this project to offset some of the costs of this project, and take that ... either way, we have to borrow money if we don't have enough to pay off at settlement time. There may not be a need to borrow money at settlement time as time elapses through this project; why are we not looking at taking on that slight risk of utilizing the existing funding in these accounts to offset the cost of this HVAC proposal, and if we foresee the need for borrowing, why can't we do the exact same thing we are doing right now to meet those obligations next year? Gallagher said there have been a number of discussions internally as to the number of projects we have earmarked for the next two years. In addition to the drawdown of funds for the Law Enforcement Center roofing project, we do not have any Capital Projects Building Fund money left over once that project is complete. We do have the opportunity to draw down from the DTR further; however, it is a matter of “pay me now” or “pay me later.” With interest rates today, it is advantageous for us to pursue this, and if we do have a surplus within the DTR in 2021, we can use that to pay these debts down without having to go out for a bond on the tax settlement.

Commissioner Rushton asked would we not be better served by using these funds up front? She is also looking nationally at what is going on. We have been on this economic trajectory for some time, and they are looking at this robust economy not (continuing) at the same pace. Would we not be better served on holding off on implementing this bond proposal and see how things go over the next few months or next year? Gallagher responded we haven't had to borrow in approximately 10 years. Chief Deputy County Clerk Jennifer Zywicki stated the money to build both buildings was funded by DTR. Gallagher said it took about five years to replenish those funds. Commissioner Rushton said it's a timing issue. We are going to work on our 2020 budget this year, and we haven't had a chance to look at our budget to see where we can make some tweaks. Some of the departments have had the “luxury” of inflating

their budgets year after year. There are areas where we can reduce these individual budgets and look for cost savings for the County. Our whole goal here was to try not to impose another millage on our citizens or to go out and borrow money and add to the costs of our citizens.

Commissioner Rushton continued – have we really looked at the options we have? We are asking to fund a dollar amount. We insisted our reps reduce that (project) estimate; initially it was \$3.5 million, we got after them, and said, “Look you can do better.” They then reduced it by a few hundred thousand. We are turning around and we are going to borrow over the original amount they presented to us. Rushton said she understood her fellow Commissioners had a concern with going out to our taxpayers for the extra millage; we had talked about trying to do this independently, in-house. She is wondering if we have really looked at all the options to save our constituents those funds (in the event of an economic downturn)? Gallagher said if the economy would be to roll back, there would be a higher settlement amount, with more borrowing and added costs. This is a fixed amount; your (highest) cost to the County is labor. Rushton asked and Gallagher responded it is slated to close at the end of the year; we do not have to commit to it today. He is asking for direction if you want to pursue this line – this is a good option.

Commissioner Rushton said this week we have been asked to consider a millage we will be discussing on August 6, for (essentially) the same amount of millage that would be used to pay for this project. If we go out for an extra millage, it would be prudent on our part to consider this as the millage, as opposed to the proposed millage request coming up. If we are going to tax our people, then let’s tax them for those things that are mandated to fulfill, as opposed to going out and incurring more debt, and then turning around and asking our citizens for a millage for something that is not mandated. Maybe we should (revisit) that option as well.

Commissioner Rentenbach said as she reads this, \$750,000.00 will be transferred from the DTR Fund #516 to (the General) Fund #101, and then a transfer of the greater amount from #101 to Capital Building Projects Fund #470, which equals the amount of what we are talking about – it is a double transfer. She is confused of the figures; here it says \$1.585 million and you quoted \$835,000.00, so there is a \$50,000.00 difference in those numbers. Zywicki said County Clerk Crocker wasn’t focused on that; Crocker isn’t sure when the bond on the loan comes, who is actually going to wrap that around. That is why that number is not in here. The \$3,685,068.00 in here is the number proposed by the contractor; we came up with the figures and bullet points that followed.

Zywicki said Commissioner Rentenbach is correct; within the General Fund and the DTR Fund, in past practice, the DTR fund isn’t allocated to other funds; the only fund it can transfer to is the General Fund (#101). Everything flows to the General Fund, and then allocated out and transferred. Rentenbach said in regards to the optional payments that

can be made beginning in January 2021, if you take into consideration Commissioner Rushton's suggestion to put off the bonding process, if we didn't have to ask for as much money in terms of a bond, if we needed a "float," we would go in at a higher interest rate, correct? Gallagher said they haven't received the scheduled draws as of yet from the contractor in order to understand cash flow requirements needed for financing the project. He was presented with the option to close later in the year. It would be most advantageous for the County to borrow at the end of the year because of the lower interest rate and the bank itself would be willing to negotiate a better rate because of yearend closing. If we wait beyond that, there are more unforeseen issues. Rentenbach said the rate is now 2.78 percent, it could go down again? Gallagher affirmed.

Commissioner Lautner said her thoughts were similar to Commissioner Rushton's, because Rushton brings up a valid point as to the obligations we are asking potentially of our taxpayers. We have a lot of big-ticket numbers out there. We were asked to approve a special meeting for next week without any mention of a millage. We have on top of that the MERS (payment), the (LEC) roof, this project, our radio system we are obligated to pay for – now there will be yet another millage asked for. Not that these figures didn't alarm her before, because they did, but these numbers and projects alarm her now. How much do we want to continue to keep obligating our taxpayers for? She had asked for the individual (fire) departments paying more towards the (radio) system, and we ended up paying for nearly the entire system. Lautner said she was also thinking along the line as Rushton had suggested, wait until we are further into the budget process to determine how we will pay for this.

Administrator Janik suggested in terms of getting this project done with the timeline for ordering equipment that is a deadline crunch date. In terms of financing, we are not at a deadline; we have the money to begin the project. Janik said Gallagher did what you asked him to do, which was to come up with financing options. This is the option he is recommending based on Board comments. The critical issue is we have to purchase the equipment now, and we have enough cash for. We have enough funding to get this project started. Your FY 2020 budget will be approved the first week in October about two months away. Even if we started the project in October, we could still have the financing in December. Gallagher concurred. Janik said what Commissioner Rushton is saying makes sense; you can approve the contracts, you can start the project. We have enough resources to pay through it. By October 1, you will know exactly what you need from the 2019 budget. At that point, you might want to reduce this to a potentially lower amount. His understanding of the timeline is the County could still meet that December 31 date. Gallagher said there is a 45-day public notice to post, plus documents that need signatures.

Janik continued; if it looks like we need to discuss this in the middle of September, we could start the process and approve the 2020 budget and the role of potential financing that first week of October. There is no urgency from our perspective to finalize the

financing. Commissioner Rushton said that is a great compromise; we could get the project started, we would have an opportunity as a Board, review the ongoing capital projects and get our budget in order, look at our extra funding and make a decision on this issue. If we get done with the budget early enough, we could revisit this prior to completing the budget due to a strategy and a plan in moving forward with this project and others.

Janik said the Board could proceed with the first part of the draft motion. Zywicki told Commissioners to utilize the first part of the draft motion, and stop after the “not to exceed” figure. Chairman Bunek said at a recent Airport Commission meeting, they talked about an equipment investment loan. Gallagher responded we do not qualify; however, there are certain authorities that do. Bunek asked and Gallagher responded we currently have \$5 to \$6 million in the DTR Fund. Bunek said and that is the most you have paid out in the last 10 years. Gallagher responded it is usually less than that. Bunek said and you want to stay with that. Gallagher affirmed. Zywicki said Gallagher has investments as well, because cash-wise, Gallagher has less than \$3 million. That is not liquid; in the General Fund, the majority of the fund is liquid. Bunek asked what do you have besides what is in the DTR? Gallagher said that is everything, including investments. Zywicki said if Gallagher’s fund balance is currently \$6.1 million, the majority of that is money that is owed to him; it is a receivable on the books. That is showing what will be coming in. If everyone paid their taxes by the end of the year, Gallagher would have \$6.1 million in cash, but that doesn’t happen. Bunek asked and Zywicki responded the General Fund has about \$2 to \$2.5 million and Gallagher has the other funds invested. That is why we were comfortable with (allocating) \$750,000.00 this year and next from the General Fund, as that fund will not see a deficit, but you will bring your fund balance down from \$7 million to a low \$5 million. Your cash is there in the General Fund.

Chairman Bunek asked are there any additional funds available for this type of project? Zywicki said the County has a Budget Stabilization Fund that by Board policy is to retain 3 percent, they are \$900,000.00 short of that, so it is not available. You could look at your budgets this year, the transfer-ins to other funds, and we try to keep those steady. She gave a potential scenario of utilizing money from the funds, saying there is no guarantee. She tries to keep (the funding levels) stable. Commissioner Rushton commented Zywicki had said you have liquid \$2.5 million in the General Fund; what total is liquid and investment. Discussion followed. Zywicki responded she is working off the end of June. Typically we budget low on revenue, so our budget will probably come in about \$350,000.00 higher. Depending on how the collection goes, you will end up with more revenue than expenses. In the scheme of things for this project, the budget will be skewed, because you will bring in \$750,000.00 from DTR and she will push \$1.5 million out. It will look like you are using your fund balance to supplement this fund, which we are, but you will have a net loss, meaning you took from your fund balance to fund this.

Commissioner Rushton asked and Zywicki responded she can't give a concrete number; when she ran the numbers, there is approximately \$3.3 to \$3.5 million in the General Fund now.

Chairman Bunek said it sounds like there isn't an additional fund to get funds for this project. Zywicki responded initially, when they sat down to look at the project and thinking it was roughly \$3 million over a two-year period, yes, you could take approximately \$1.2 million from each fund for the next two to three years, and you would be in a "safe zone." But when it comes in at \$3.6 million and you want to drain \$1.5 million from the General Fund, you need to supplement the other. Bunek remarked, and we need the additional \$300,000.00 for the LEC roof project, too. Zywicki affirmed, and will probably come from the General Fund this year. She said in the 2019 budget, Gallagher does not have anything coming from DTR (to the General Fund) this year; he has a contingency line item. You are talking a "shuffling game" here to cover expenses, which is above what we initially discussed. When we looked at the proposed roof, you were fine. However, you have come in an additional \$1 million from what we looked at. If you could go to a third year, yes, we could come up with that. However, we cannot guarantee that third year you will have that \$750,000.00, which is why you are looking at a bond or a loan to guarantee that your funding and projects proceed without a hiccup.

Commissioner Lautner asked are we okay waiting until the budget process in getting firm and concrete? Zywicki responded for Gallagher to feel safe, you would go with the commercial lending, because the unknown is there and your project is far outside your reach of cash. If you had told her this was going to be less, she and Gallagher would be able to say they have you covered. However, it is not, so they do not have you covered. Can she tell you they can find that \$500,000.00 in this budget she is preparing for you; absolutely not. She can tell you that this is the first time in many years the fund balance is less than \$1 million. There is no guarantee. This is a flat budget year, with hardly any increases. Lautner remarked we have been warning about that for some time that this would happen. Zywicki said Gallagher is most comfortable if you follow through with the commercial lending versus waiting to see if he needs to bond out on his DTR.

Commissioner Rentenbach said it seems we do not have to make a decision on a transfer of funds until October. Gallagher clarified the transfers will still be done. Zywicki said she will prepare a budget amendment; if you proceed with the motion to go ahead with the HVAC project and not exceed \$3.685 million, the first portion will come in the form of a budget amendment and transfer to begin the process. Gallagher said it takes 60 days from the date of signing to finalize the bonds. Janik said we can accomplish that in the August or September meetings. Gallagher and Zywicki concurred. Janik said for clarification, when we talk about bonding, we are not talking about a vote of the people; this is not that type of bond, and it doesn't require a public vote. Gallagher added we are saving approximately \$20,000.00 in brokerage fees as well. It is the most flexible vehicle he could find. This best suits what we are looking for. Janik

said so in theory, Huntington could come back with a lower interest rate. Gallagher affirmed.

Zywicki asked the Board to make a motion using the first portion of the suggested motion, without the bullet points. More comments followed.

#179-08012019 Regular Session

MOTION BY WESSELL THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE HVAC PROJECT FOR THE LEELANAU COUNTY GOVERNMENT CENTER IN AN AMOUNT NOT TO EXCEED \$3,685,068.00. SECONDED BY RENTENBACH.

Discussion – Commissioner Ansortge said we are approving the dollar amount, but we have not had a discussion on the contracts. If for some reason in our next discussion, the amount is not the full amount, we can adjust that amount. Janik affirmed.

#180-08012019 Regular Session

MOTION AMENDED BY RUSHTON TO ADD WITH INITIAL FUNDING AS FOLLOWS:

- ***TRANSFER OF \$750,000.00 FROM THE DELINQUENT TAX REVOLVING FUND (DTR), #516, TO THE GENERAL FUND, #101***
- ***TRANSFER OF \$1,585,068.00 FROM THE GENERAL FUND, #101, TO THE CAPITAL PROJECTS BUILDING FUND, #470, AND***
- ***THE REMAINDER OF THE PROJECT TO BE DETERMINED AT A FUTURE DATE.***

AMENDED MOTION SECONDED BY LAUTNER.

Commissioner Wessell said he is comfortable amending his motion with adding this language; however, he thought that the Clerk and Treasurer would be comfortable not including that in this motion. Gallagher said it is a redundant statement, because they will bring before the Board the budget amendment and transfers at the next meeting.

Commissioner Rushton said she would restate her amendment:

With funding to be determined at a future date.

Second amendment died for lack of support; discussion ensued on procedure.

Commissioner Lautner asked to speak to the amendment on the floor; she understands what Commissioner Rushton is doing. We are basically saying we are directing the Clerk to do what she is planning to do anyway. At the same time we are adding that portion to our motion, letting our taxpayers now where some of the funding is coming from. It does spell out to us the first portion of the funding. Commissioner Rushton said her

point was we hadn't decided that future funding. She wanted that in the motion, so we had the same understanding that we are yet to decide how that future funding will come about, because we have all options on the table.

Amended motion restated by the Board Chairman:

#180-08012019 Regular Session

MOTION AMENDED BY RUSHTON THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE HVAC PROJECT FOR THE LEELANAU COUNTY GOVERNMENT CENTER IN AN AMOUNT NOT TO EXCEED \$3,685,068.00, WITH INITIAL FUNDING AS FOLLOWS:

- **TRANSFER OF \$750,000.00 FROM THE DELINQUENT TAX REVOLVING FUND (DTR), #516, TO THE GENERAL FUND, #101,**
- **TRANSFER OF \$1,585,068.00 FROM THE GENERAL FUND, #101, TO THE CAPITAL PROJECTS BUILDING FUND, #470**

Discussion followed on the motion language.

A voice vote was taken; Commissioner Ansorte called for a roll call vote.

ROLL CALL VOTE: Rushton – YES; Soutas-Little – NO; Wessell – YES; Ansorte – NO; Bunek – NO; Lautner – YES; Rentenbach – NO.

AYES – 3 NO – 4

MOTION FAILS.

The original motion was restated by Chairman Bunek:

#179-08012019 Regular Session

MOTION BY WESSELL THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE HVAC PROJECT FOR THE LEELANAU COUNTY GOVERNMENT CENTER IN AN AMOUNT NOT TO EXCEED \$3,685,068.00. SECONDED BY RENTENBACH.

AYES – 5 (Wessell, Ansorte, Lautner, Rentenbach, Soutas-Little)

NO – 2 (Rushton, Bunek)

MOTION CARRIED.

Government Center HVAC Recommendations:

Janik said the Board has before them a series of recommendations, including contracts and purchase orders. The contracts were drafted by the County's counsel. There was some dialogue with the contractors. The first contract is with A.B.I. Mechanical.

Janik said he would answer Commissioner Wessell's question at this time. The bids were due Friday, July 12, 2019, at 3:00 p.m. the ABI bid was on time; the Hurst bid arrived a few minutes after 3. We did not open any bids until approximately 3:15 p.m., when the Hurst bid arrived. The bids were still sealed. After the bid opening he asked our consultant, Kirstin Policastro of E3, Inc., and Apollo Engineering/E3 engineer John Richards to review all the bids. The Board subsequently held a special meeting and E3

made a recommendation on the contracts. You heard from Policastro. Janik said after that meeting, he received a call from Hurst rep Tom Gomber, who had watched a video of the July 16, 2019 Special Session, and was concerned about some of the statements Policastro made and Gomber claimed his firm had not been vetted out, as Policastro had stated. Janik said he then asked Gomber to write down his concerns and forward them to Janik and he would pass them along to Commissioners; he also forwarded Gomber's statement onto E3 that did the vetting process. Gomber is claiming Hurst can meet all the criteria, standards, and schedules. They took objection to some of the comments of their work. Janik commented further on the vetting process.

Janik continued, saying he asked Richards to be present to address why E3 is recommending A.B.I. Mechanical, as there is a substantial price difference. Commissioner Wessell said there seems to be some confusion on facts. Either they were or were not vetted. Richards of Apollo Engineering/E3 was present. He said after this bid process, they contacted both A.B.I. and Hurst. They did talk with them, to get a clearer picture on how their bids were built. Policastro was the primary person doing that work. She had tried to put all of the information in her spreadsheet to determine the money and the processes. They didn't have a formal interview at a table where they discussed materials; we understood both contractors were qualified to create bids on materials and labor. The materials typically in a post-bid interview, we were confident that both contractors had equal or as-specified equipment. We didn't feel the need to discuss that with them. Both bids were within what E3 had projected as a budget. E3 didn't focus on the additional cost because it was within budget. We didn't look at the \$200,000.00 as something that would be an additional cost; it was within their projected cost.

Commissioner Ansoerge said as he asked in the previous meeting, he brought up that the Hurst bid is \$205,000.00 cheaper; is there a problem with the firm? His understanding is that both firms are reputable firms, no question as to ability to perform the work, there were no red flags out there. He did a Google search, and there were no legal issues with either company. It is his understanding both firms are reputable doing large projects. He did not get a good answer why we would pay an additional \$205,000.000 to go with ABI over Hurst. Richards said he cannot provide a "smoking gun." He guesses we are within our budgeted scope of this project. We don't look at it as an extra \$200,000.00; there is no absolute smoking gun. Ultimately, Commissioners will decide.

Janik noted Policastro had specifically stated the quality of the work; she gave a specific reason. Both Janik and Commissioner Ansoerge had asked why would the County spend an additional \$205,000.00 just because it is in the budget? It is still coming from the taxpayers. Why would Policastro emphatically recommend a bid that was \$205,000.00 more? This recommendation came from both of you. (E3) was hired as the County's consultants to do the vetting process. Commissioner Lautner said it seemed to her the confidence to get the work done. Janik added and the quality of work and the schedule.

Lautner added she thought this was coming from professional knowledge of other things. Janik said we hired you and are paying a fee to be our consultants and do the work for us. Policastro's response was she thought A.B.I. could meet the timelines more accurately without overruns, and also the quality of work. She was concerned there would be change orders coming from Hurst. Commissioner Anson said we signed a contract with a vendor to provide a service for ("x" amount of funding). They misestimated the amount for labor it cost to do it. We do not have to pay extra because they made an error. They are obligated to perform the work at the price performed. If they made a bad estimate and it cost more, they are on the hook for the overrun. Richards affirmed.

Commissioner Lautner asked could we take a moment to hear from both companies briefly? The Hurst firm spoke during the first Public Comment; do they have anything to add before we move on? And she would like to hear from A.B.I.

Commissioner Rushton asked Richards –historically, have you found that if you hire a company for "x" amount and they come back with change orders, and you say you told us you would do this for this amount, so it is on you. You need to finish the project in order to receive payment. The problem with that operation is now you have an employer that has to send employees to a job and "eat" that cost. This is hypothetical; the performance that is received by the customer isn't the highest standard. That raises a concern for her, that if the company can't make the project requirements for the bid they presented, and they are told there is no extra or overruns, and they made a mistake, sure they will have to eat it, what is the quality we get as the client?

Commissioner Wessell said he wants an answer to the question of the July 23 email from Janik, where he said he received word from Hurst that they hadn't been provided an opportunity to interview by the consultant or the engineering team. Policastro's response was they did get an interview. There are two different statements. Janik said and Richards confirmed it was a phone interview only. Richards affirmed; they understood they had met our requirements of what was drawn, we had no concerns with either company providing equipment, etc. Wessell said if you had no concern, and no issue with either company, why would we sit here and say we will pay an additional \$200,000.00? That is a significant interest payment on that previously discussed loan. I think we should reconsider who should do this project.

Chairman Bunek said if someone has underbid the project, it ends up creating problems and the job gets held up. If they are at a job and are not making money, they will send someone to a job that is making money. Maybe he is reading too much into this. If there wasn't enough labor provided in the project bid, our adviser would fear the job would get held up because there isn't enough labor in it. The whole project could be held up, and Policastro thought there could be a time crunch. Commissioner Soutas-Little said that is what she understood Policastro was saying; you hired us for our professional advice and counsel on how to move the project forward in a timely

manner. Based on their experience, on companies that meet the timeframe, that is her experience.

Commissioner Ansorte said he understands the logic; that could apply to any bid, including the higher bid. It doesn't matter in his opinion, because that can happen in either case. He still doesn't have a good answer on why we would spend \$205,000.00 more than we need to. Chairman Bunek said so the same thing could be applied to the electrical. Discussion followed. Bunek said that is why we hired E3 to give us advice.

Commissioner Wessell said he is hearing that even though there was concern, there was no opportunity for (Hurst) to defend its bid. If Policastro believed they had under-budgeted, there should have been an interview where that was discussed. Commissioner Soutas-Little said you did say it was discussed by phone. Richards affirmed, with both companies. As he understands, Policastro went with the information she was provided to base her recommendation. Ultimately, it is the County Board that makes the decision.

#181-08012019 Regular Session

MOTION BY LAUTNER THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE AGREEMENT BETWEEN THE COUNTY OF LEELANAU AND A.B.I. MECHANICAL IN AN AMOUNT NOT TO EXCEED \$2,374,000.00 AS PRESENTED, SUBJECT TO CORPORATE COUNSEL REVIEW AND APPROVAL; FUNDS TO COME FROM CAPITAL PROJECTS BUILDING FUND #470. SECONDED BY RUSHTON.

Discussion – Commissioner Lautner said she wants to get the ball rolling and move on. When she looks at this whole project, we have hired a company to help advise us, she believes Policastro's confidence in (A.B.I. Mechanical) means something. This company has probably built a contingency of some kind, hopefully the final cost will be less than this amount, which is the reason for her motion. Commissioner Rushton questioned if the Board wants to hear from both companies at this time prior to voting?

Hurst reps Borst and Nyhuis were present. Borst said A.B.I. Mechanical and Hurst Mechanical are both very good contractors. The County won't go wrong with either contractor. In speaking to some of the comments that were made, from what he understood, the interview wasn't a normal, post-bid interview; it was over the phone. The questions asked weren't a normal review of the project. Nyhuis said the interview lasted less than five minutes. He was given two hours to provide a materials breakdown. Borst said as far as the labor goes, they are professionals. The comment on contingency; it is a bid-spec type job. We do lots of design builds across the state. With a bid spec, you don't put an extra amount of money. Commissioner Rushton asked is your labor union or nonunion. Nyhuis said we are union company. Borst said we pull from the same labor pool. Borst stressed again, both great contractors; would not say anything bad about A.B.I.

Ken Goodhue, project manager from ABI Mechanical, said he had put the bid together. He mentioned staff members that live within Leelanau County. There are some things on the plan that don't show water lines; he has those covered. Hanging the chilled beams, there was no detail, and they have to be hung. He is working with the supplier to get air handler shipped differently to fit through the doors. Has done a lot of work, and is very confident. There is a contingency in there for the fire suppression because he has 47 heat pumps and they may need to be moved; if not, the funds will be returned. He has worked hard with the subs on this job, who have all toured the building.

Commissioner Rushton asked are your employees union or nonunion? Goodhue responded they are all union, local #85. Commissioner Wessell said in your bid, is there anything you are providing in terms of materials or detail that wasn't covered in the other bid? Goodhue said there were a few things, like the water for the dehumidifiers wasn't detailed. Commissioner Wessell said his point is that both firms knew water needed to be built into the bids. Goodhue said he cannot speak for Hurst.

Commissioner Soutas-Little said you took a look in person; that is why you knew about the door openings. Goodhue said he is working with the pre-purchase suppliers now. More comments followed. Soutas-Little asked and Goodhue affirmed his subcontractors visited this site. Soutas-Little said did you look at the site? Goodhue affirmed, adding he had to give a labor breakdown. Soutas-Little asked Hurst rep Nyhuis, did you take a look in person? Nyhuis affirmed, and continued to comment on how he built his bid. Janik confirmed we had two pre-bid walk-throughs.

Chairman Bunek asked Richards, you said it was within the parameters of your bids; the parameter was \$1.9 million, and the A.B.I. bid is \$400,000.00 above that and Hurst's bid is \$200,000.00 above that. That is a considerable difference to him. Richards responded he doesn't know the specifics of the bid; Policastro had gone through the bids, saying she was over in some areas and under in others. Bunek said he thought the overall was \$3.3 million; and we are at \$3.6 million. Richards said they have a built-in contingency. We are not contractors; we are really close to the ballpark.

Commissioner Ansortge said he has heard nothing from either contractor to justify paying an additional \$205,000.00, so he will not support the motion. Commissioner Wessell said he feels the same way; he would like to send a message to Policastro that at least one Commissioner is unhappy with the whole process. Knowing there was an issue today, she should have been present. Chairman Bunek said he, too, will not be supporting it because he doesn't support the project. Richards said he understands Hurst isn't happy with the post-bid; perhaps Goodhue could state his opinion. Goodhue said they have phone interviews all the time. Within an hour he had all the breakdowns on labor, etc.; there was more than one phone call. Policastro's initial phone call was 5 or 10 minutes long. He can understand why she didn't have an in-person meeting.

Commissioner Rushton asked does our Administrator have anything to add in the process? He was involved with resolving the issue. Janik said he talked with both Policastro, Richards and both firm's reps. It is basically a perspective of the vetting process. Hurst was concerned they were not given an opportunity to express their views. More comments followed.

Chairman Bunek requested a roll call vote (for Motion #181):

ROLL CALL VOTE: Lautner – Yes; Rentenbach – NO; Rushton – YES; Soutas-Little – YES; Wessell – NO; Bunek – NO; Ansorge – NO.

AYES – 3 NO – 4

MOTION FAILS.

Chairman Bunek asked if anyone wanted to make a motion to try to decide the project. Commissioner Wessell said he doesn't think we are ready for another motion at this time; we need Policastro here and reconsider the contract. Chairman Bunek said we have the bids. Wessell stated we need our expert here to review the bids and address questions on the bids. Janik said you could stop the entire project, or continue forward by approving the other parts, and then have a meeting to revisit the mechanical part, which is critical. You could still go forward with everything else. Discussion ensued.

A 10-minute recess was called at 2:06 p.m.

Back in session at 2:16 p.m.

Chairman Bunek asked are there any other recommendations for the HVAC?

Commissioner Rushton asked Richards, what is the impact of the tariffs on this particular bid? Richards responded they are not substantial, as the majority of the materials are American-made.

Chairman Bunek noted Maintenance Director Gerald Culman II was present and asked to address the Board. Culman said he has worked for Leelanau County for 39 years; no one ever asks him his opinion, they all assumed. He has had a lot of discussion with D&W rep Gary O'Connor, who cares about the County. Culman said he feels we know everything goes bad after a while. Do we replace the whole system for a better system? Yes, we could. For an average \$14,000.00 high end, you figure \$80,000.00 for 6 units, at this point in time, not a lot of money has been spent. His opinion is that the maintenance side continues to take care of what does work. It isn't the most perfect system, but it does work. He continued to comment on the HVAC issue. All the companies here, he feels how things are going right now, there are a lot of different things in play here. Will it hurt for us to wait? No. Comments followed upcoming projects like the parking lot. There are a lot of what-ifs. We can get by for a while, maybe another year or two. When it comes to fixing the units, we can get it taken care of.

Commissioner Ansonge said we can afford to spend \$200,000.00 a year to fix the existing system and not spend any more money than what is proposed today. He doesn't think we should do a thing, other than fixing what is needed. It isn't an emergency, no one is dying of mold – we could spend \$200,000.00 a year for a long, long time and still be ahead of the game. Commissioner Soutas-Little asked Ansonge, when you say fix the things that are not there, do you mean install baseboards? Ansonge said fix the six heat pumps that are down today, and purchase and install the baseboards that should have been there. You will get new heat pumps that are more efficient. It doesn't have to be done today, it can be an incremental project.

Commissioner Lautner asked are we moving on to budget? She has a question on process. We have passed a motion to move this project forward and she isn't hearing a lot of confidence at this time. We have a lot of questions for this project. Do we leave the motion standing, or put a hold on the project today? Janik suggested adding this to next week's Special Session agenda for discussion on moving forward. You haven't allocated any money or ordered equipment. You have authorized partial funding for the project. You haven't signed any contracts, including authorizing E3 as the project manager. At this point, you have not done that. Lautner asked will we discuss at another meeting? Janik said if you approve a contract with a mechanical contractor, you would then approve the other contracts and equipment orders, as it doesn't make sense to approve the mechanical contract and not the rest. Lautner said there was a certain amount of time, if we aren't moving forward with this project... Janik remarked we are okay – you haven't spent any money. The funds are "not to exceed;" it could mean renovations. You have lots of options. You will have to make some decisions, as these bids have deadlines. In terms of meeting (deadlines), you have two meetings coming up, August 6 and 8. Discussion ensued. Commissioner Wessell said it is important Policastro be here; whatever meeting she can make. Richards confirmed Policastro can attend either session.

#182-08012019 Regular Session

MOTION BY ANSORGE TO ADD THE HVAC SYSTEM DISCUSSION/ACTION TO THE AUGUST 6 MEETING AFTER THE ECCC DISCUSSION. SECONDED BY RENTENBACH.

No Discussion.

AYES – 7 (Ansonge, Bunek, Lautner, Rushton, Soutas-Little, Wessell)

NO – 0

MOTION CARRIED.

2020 Budget Review:

Zywicki and Gallagher III were present to review the draft 2020 Leelanau County budget. Janik thanked County Clerk Michelle Crocker and Zywicki for all their efforts on creating the draft. The staff has been very diligent in keeping their budgets in line. He, Crocker, Gallagher and Zywicki met to review requests for 2020. We did have an additional MERS payment of \$250,000.00 included in the General Fund and the purchase of four vehicles for the Motor Pool Fund. There are no salary adjustments due

to contract negotiations later in the fall. Last year, the Prosecuting Attorney submitted a STOP grant for a partnership with the Women's Resource Center and it is not in the draft 2020 budget. We are not sure what his plans are. He chose for whatever reason not to use the funding.

One thing also not in here is the potential problem with the Dam Authority and the high water levels, there is about 2-inches of water coming into the control room. OHSA personnel has provided recommendations. The Dam Authority asked Pat Machin to conduct an engineering study. The study alone is about \$20,000.00. We need a dollar amount of what you are discussing, and there should be an assessment to property owners. Because an assessment district has already been established, most of the work is done. Discussion ensued on the topic and a recommendation will be coming to the Board in August.

Brief discussion ensued on items and requests that are not included in the budget such as salary increases, negotiations, assessment district for the Dam, the Great Lakes Board application, Glen Arbor Township and their boat, the personnel request for Probate Court, the HVAC system, parking lot resealing estimate, AED in all department vehicles, LEIN line, Motorola contract, Towertop Amplifiers, Peshawbestown Tower upgrade.

Next Budget Work Session Topics:

Future Budget Work Session Dates:

Next meeting is at 9 a.m., Thursday August 8, 2019. ***Consensus by Commissioners to hold a Budget Work Session on the afternoon of August 13, 2019, following the Executive Board session.***

Public Comment:

► Treasurer Gallagher said you have always asked us to be creative, and to find hybrid solutions. With this upcoming project and if we were to get a hybrid solution, if it is over 36 months, we would have the cash. We could save ourselves the money by not financing it. An 18-month period is not comfortable. Commissioner Ansorge said we asked you to do that; we appreciate that. Commissioner Rushton concurred.

Commissioner Comments:

None.

Adjournment:

Chairman Bunek adjourned the meeting at 3:08 p.m.

William J. Bunek, Chairman
Leelanau County Board of Commissioners

Laurel S. Evans, Special Deputy County Clerk
Clerk-Leelanau County Board of Commissioners