

SPECIAL SESSION-FRIDAY, JUNE 23, 2023

The Yates County Legislature convened in special session Friday, June 23, 2023 at 1:30 p.m. with Chairwoman Church presiding, with Mr. Jayne & Mr. Willson absent.

Legislative Zoom Attendees: 0 Other Zoom Attendees: 7

*For full and complete discussion please listen to the audio available at www.yatescounty.org

RESOLUTION NO. 315-23

Mr. Banach offered the following resolution and moved its adoption, seconded by Mr. Paddock.
DISCUSSION:

Mr. Killen stated the 2 questions he had was the presumption initially that there was going to have to be soils moved. And now this is not included in that that estimate. You could speak to that a little bit also, in regards to the price per yard, as far as the removal and replacement as to the disposition of those soils is part of that for taking it to a landfill, or what's the appropriate disposition of those soils.

Mr. Rapalee stated that initially in the project before any dirt was moved, and they bid this thing out. It included an investigation of the underground soils. He brought a copy of that plan with him today. They did 4 borings at various locations on the site, and they also did multiple test pits where they actually physically dug a hole with an excavator to check for these soils. From that long 200 page report they essentially ended up with, an estimate of about 3,000 cubic yards of unsuitable soils that they felt, or the designer felt that they're going to need removed as part of the project. The majority of those soils were going to be in the northeast portion of the new facility itself. That was the majority of where they felt based on the information that was collected where the unsuitable soil was going to need to be removed. As they started into the construction, the first excavation that they started with was the salt barn. They ended up finding through CME oversight, they ended up finding an extra 1,500 yards of unsuitable soil at that location which was unanticipated. If they just look at it from simplistic math, they're already 1,500 yards in and then the second area that they went up to was the far north parking lot. The very far northwest parking lot, which is their temporary parking lot, and they ended up finding an extra 200 and change of unsuitable soils up there. Now they're upwards of 1,800 yards into their 3,000 yards. If they already started the mass excavation for where the building was going to go, and what they found pretty much is all the 2 other properties, the Murphy property, and the Gilbert property. They've been in pretty good shape, they've been able to cut those areas down, and they haven't really found anything. Now they're headed north and the area that they're excavating right now, and actually he was up there this morning, and that's why they're there. He had the pleasure of looking at a nice black pile of yucky dirt which is exactly what they're dealing with, and the area they're dealing with this right now is under the existing plow barn. There were no borings, no test pits under that barn, but that is where they're finding, is it north of the test pit and south of some of the borings that were completed. Now, upon completion of the removal of the plow barn they are completing the mass excavation. They are finding additional unsuitable soils.

Mr. Killen asked if these are old septic fields.

Mr. Rapalee stated that it could be, it could be anything really with organics. Their presumption is whenever they built that building they brought in whatever they had and they spread it out and they built a building on it. Now, they're finding the goodies underneath the building. So from the estimates that we have been provided, he thinks they're looking at an additional 3,000 yards at \$70 per cubic yard. Their estimate right now is worst case scenario, they believe, is about \$275,000 and they're asking for \$300,000 to play it a little safe in case they run into something else. He thinks that answers Pat's first question, Pat's second question as far as the \$70 a cubic yard, that \$70 was in the bid. That was pre-bid, it's not something they're coming at them with now. They feel it's a good number. If the soils are unsuitable they'll come out and they'll go down to a dump site. If it's found to be contaminated for some reason it'll get stored on site and it won't leave the site and it's tested, so on and so forth. The \$70 includes not only removal, but it also includes the stone that's got to come back in, get placed, and compacted. So it's kind of an all-encompassing value.

Mr. Holgate asked what comes in to replace it and unsuitable is underneath the one building. It was dark, bad whatever. Have they reached out to actually find that there is maybe a close proximity area where they could dump the soil.

Mr. Rapalee stated that there's multiple dump sites he thinks that they're utilizing.

Mr. Holgate asked if at this point, this would be something that the highway department can start loading trucks and move a lot of this themselves.

Mr. Rapalee stated that they did have discussions with DiFiore about the highway providing trucking to help haul some of this off. They did have those discussions, if they do that, that's fine. But the \$70 encompasses removal and replacement. They'd have to have a negotiation with them for essentially every yard they took off, what that credit would be. They would have to have a negotiation with if they are to do something like that. It's not out of the question, though.

Mr. Holgate stated that if somebody knew that there was a lot of soil available and they see signs "Fill Wanted", that sort of thing. It seems to him there would be somewhere pretty close that somebody would want to fill a site in. It may not be suitable for them, but it may be suitable for somebody else.

Mr. Rapalee stated that they already have been dumping it somewhere down on 14A, there's a dump site.

Mr. Reed stated that they are going just south of the Apex machine. They're going in a farm driveway back off the roadways.

Mr. Holgate stated that it's not a long distance. He asked if the \$70 per cubic yard is a rip off.

Mr. Rapalee stated that no, he doesn't think so, absolutely not. He and Joe talked about it the other day and they actually feel it's a really good number, if they consider what stone is per ton right now. He's glad they have this unit price and pre-bid. That's more of a competitive price than it would be if they were trying to negotiate a value right now after the fact.

Mr. Holgate asked if the stone comes in from like Seneca, crush stone or something.

Mr. Rapalee stated that Oaks Corners, he believes, is where they're getting the crusher run. Mr. Button stated that yes, it's a good price. He asked how much lower DiFiore was than the next bidder.

Lester, from Watchdog Building Partners, stated that they only had one site bid. They usually see that number as high as \$110 cubic yard. It depends on how far away they are from the crush stone and they are fairly close in proximity for trucking.

Mr. Button asked Mr. Rapalee if he thinks they're about halfway done in the dirt part of it.

Mr. Rapalee stated that they are probably 90% done.

Mr. Holgate asked if it is safe to say that they have not found any contaminated soils.

Mr. Rapalee stated that no, they haven't. He and Joe had a discussion before this, and he went and just reviewed his notes this morning. They are asking for approval of this resolution, but he would also like to have a secondary discussion on the contaminated soils, following this discussion.

Mr. Killen stated that regarding price this spring he bought stone like he used to do for his driveway, and it was almost double what he paid couple of years ago. What was low 20's was high 30's for crush and run.

Mr. Rapalee stated that even at highway, they were paying \$11.50 a couple of years ago, and right now they're paying \$19.50. So prices are going up in stone.

Ms. Chilson asked where this money will be taken from.

Mr. Rapalee stated from project contingency. As of today there's \$963,000, almost \$964,000 in their current building project contingency. They would appropriate \$300,000 of it to this issue, but then they would come back to the legislature when they have actually a final number and amend this resolution.

Mr. Button stated that like what they've done with broadband, maybe at the every month, they might just get them a running balance of where that contingent is at the Public Works meeting, or something like that.

Mr. Rapalee said they will probably done in two weeks.

**AUTHORIZATION TO PROCEED WITH THE REMOVAL & REPLACEMENT
OF ADDITIONAL UNSUITABLE SOILS
(DiFiore Construction, Inc. T&M Not to Exceed)**

WHEREAS, Resolution No. 200-23 authorized a contract with DiFiore Construction, Inc. for the Sitework Construction services on the Yates County Highway, Office of Emergency Services and Public Health Facility Project; and

WHEREAS, this contract includes a unit price for the removal and replacement of Unsuitable Soils at a unit price of \$70.00 per cubic yard; and

WHEREAS, the original contract documents identified the removal of approximately 3,000 cubic yards of unsuitable soils at various locations throughout the project site; and

WHEREAS, during the excavation and mass cut activities, DiFiore Construction and CME Associates have identified areas where additional unsuitable soil removals will be required; and

WHEREAS, the Highway Superintendent is requesting authorization to direct DiFiore Construction, Inc. to proceed on a Time and Material basis for the additional removal and replacements required at the previously identified unit price for a sum not to exceed \$300,000; and

WHEREAS, DiFiore Construction, Inc., CME Associates and Watchdog Building Partners will collectively identify the additional cubic yardage of unsuitable soil materials removed

NOW, THEREFORE, BE IT RESOLVED, that DiFiore Construction, Inc. is authorized to proceed with the identified additional scope of work; and be it further

RESOLVED, that the necessary funds for this change will be allocated from the project contingency line item; and be it further

RESOLVED, the Chairwoman of the Legislature is authorized to execute the appropriate documents to affect the above amendment upon determination of the final cubic yardage removed and the final dollar amount; and be it further

RESOLVED, that copies of this resolution be provided to C & S Engineers, Inc., the Office of Emergency Services Director, the Highway Superintendent, the Director of Public Health, the Director of Finance, the Building Maintenance Supervisor, the County Administrator, Watchdog Building Partners and DiFiore Construction, Inc.

VOTE: Unanimous

Mr. Rapalee stated that where they are right now with the Fuel Island project is there they're working on the canopy, the tanks are in place, the plumbing is ongoing, they should be pulling electric next week, there's fuel on the tanks, and it's likely that they'll be switching over hopefully towards the end of next week. That's the current schedule. Once they switch over, then they would be removing the existing tanks. So again, they have borings, they have test pits, they did some test holes near the tanks, and they haven't run into anything that they're aware of yet. They did have a little smell from one of the borings way back, but they have no reason to believe they're going to run into any contaminated. They have no reason to believe that right now, but he doesn't have a crystal ball, and when they get in the ground it could be a different story. So what he and Joe discussed before this meeting was, maybe it would be a good idea to have the Legislature authorized him and Joe to expend up to \$50,000 if they do find contaminated soils. With that said, there was a \$50,000 allowance put in LaValley's contract specifically for this purpose. So it's not any additional funds, it's already in the budget, but if they look back at how

they presented the budget, essentially anything over \$2,500, he needs authorization from the legislature to expend. So considering they're in session, considering the schedule of the Fuel Island, considering they won't be back with even the Public Works Committee meeting until the 5th, and then they wouldn't be back in full session until the 12th, he wouldn't want to come back and have another meeting. Cross his fingers that they don't run into this, cross his fingers they don't need it, but it would be beneficial to the project if they had the legislator's authorization to expand the \$50,000 if needed. They should not need a resolution for that, it should just be an authorization, because they're not changing the value of LaValley's contract at this point.

The committee discussed this request and after much consideration came to the consensus not to hold the project up and gave authorization for them to go forward up to the \$50,000 if they run into contaminated soil. Going forward it was recommended that they consider increasing the thresholds for allowances.

Mr. Bronson moved to enter into executive session to discuss:

1. The employment history of a particular individual, attendees being members of the legislature and the County Administrator.

Seconded by Mrs. Percy.

VOTE: Unanimous

Meeting adjourned at 2:40 p.m.