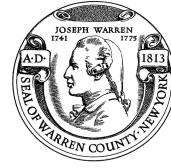


Warren County Board of Supervisors

**BOARD MEETING
FRIDAY, APRIL 18, 2014**



The Board of Supervisors of the County of Warren convened at the Supervisors' Room in the Warren County Municipal Center, Lake George, New York, at 10:00 a.m.

Mr. Kevin B. Geraghty presiding.

Salute to the flag was led by Supervisor Dickinson.

Roll called, the following members present:

Supervisors Conover, Monroe, McDevitt, Taylor, Brock, Kenny, Frasier, Simpson, Vanselow, Dickinson, Merlino, Strough, Sokol, Beaty, Westcott, Thomas, Wood and Geraghty - 18. Supervisors Girard and Seeber, Absent - 2.

Motion was made by Mr. Taylor, seconded by Mr. Dickinson and carried unanimously to approve the minutes of the March 21, 2014 Board Meeting, subject to correction by the Clerk of the Board.

Commencing the agenda review with the report by the Chairman of the Board, Chairman Geraghty read aloud the listing of meetings he had attended since the last Board Meeting. *A copy of the Chairman's Report is on file with the items distributed at the Board Meeting.*

Moving on to the next agenda item, Chairman Geraghty called for reports by Committee Chairmen on the past months meetings or activities and the following were given: Supervisor Dickinson Invasive Species, Real Property Tax Services and Criminal Justice; Supervisor Merlino, Public Works and Tourism; Supervisor Sokol, Health Services; Supervisor Thomas, Soil & Water Conservation District; Supervisor Wood, Public Safety; Supervisor Conover, Finance; Supervisor Monroe, Adirondack Park Local Government Day Conference and Gaslight Village Ad Hoc; Supervisor McDevitt, Community College; Supervisor Taylor, Support Services and Personnel; Supervisor Kenny, Occupancy Tax Coordination; and Supervisor Frasier, Human Services.

Mr. Dickinson advised the last meeting of the Invasive Species Sub-Committee had been cancelled in order to hold a Health Services Committee meeting to discuss matters relating to the Westmount Health Facility, but said he could give a brief update on continuing invasive species related efforts. Mr. Dickinson reported that through the Lake George Park Commission (LGPC) a frozen boat program had been started to tag those boats that had spent the winter outside to indicate they would not require inspection or cleaning as no invasive species could have survived the recent winter season the region had experienced. He advised there were nine people performing the boat inspections and he noted that he had volunteered to assist with this work as it was one of the few jobs in the invasive species effort that he was qualified to perform. Mr. Dickinson said he had traveled to many different locations to perform these inspections, ranging from the Town of Moreau to the Town of Athol, and had even performed an inspection that morning on the way to the Board Meeting. He stated that this was a great program which offered the opportunity for educational outreach to explain that while a tagged boat was ready to be launched in Lake George, it should not be removed and launched in another body of water without inspection/cleaning because Lake George had five invasive species that could be transferred to other water bodies.

Continuing, Mr. Dickinson advised that, as Vice-Chairman, he had chaired the April 1st meeting of the

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Real Property Tax Services Committee in Supervisor Monroe's absence. He pointed out that the Committee had approved three resolutions, represented by proposed Resolution Nos. 181, *Cancelling or Correcting of Assessments and Refunds of Taxes*, 182, *Authorizing an Agreement with Northco Products, Inc. to Bulk Plot Tax Maps*, and 183, *Accepting Proposal and Authorizing Agreement with Collar City Auctions, Realty & Management, Inc. for Professional Auctioneer/Broker to Conduct Land Auction*, all of which were included in the resolution packet. Mr. Dickinson also reported on the March 31st meeting of the Criminal Justice Committee, noting that Robert Iusi, Director of Probation, was doing a great job of reorganizing his Office and utilizing existing staffing to cover for some vacancies that had occurred, while saving money for the County. He said the Committee had been advised of the dangers associated with the home visits performed by the Probation staff and the need to increase the safety measures employed during these visits; he added that Mr. Iusi had met with representatives of the County's Self-Insurance Administration and Needham Risk Management to develop a listing of equipment necessary to support safer home visit procedures.

Mr. Merlino reported that the Organics Management Workshop meeting held on April 4th, had been very informative and he advised he had copies of the information presented during the meeting if anyone was interested in reviewing it. He commended Ruth Lamb, the organizer of the Workshop meeting, on the hard work and dedication she had contributed to organizing the workshop. Mr. Merlino provided a summary of the March 27th Public Works Committee Meeting, advising that the Committee had approved proposed Resolution Nos. 175-180, all of which were included in the resolution packet. He apprised that an update had been provided by the Saratoga & North Creek Railway indicating their ridership figures were 10% higher for the first quarter of 2014 than they had been for 2013 and that they had already received 400 reservations for spring train travel and 1,000 reservations for summer train travel. Mr. Merlino continued that the Public Works Committee had voted in favor of replacing the contractually required "Day out with Thomas" event with the "Pumpkin Patch Express" event for 2014. He said they had also been advised a contract had been signed and freight operations would begin in the near future to transport stone from the Tahawus mines to a stock piling area in the Town of Corinth where it would then be transported to Albany, NY and loaded onto barges and taken to Long Island, NY. He reported that the Maple Festival held at Up Yonda Farm had been deemed a success with 158 participants and he advised the Superintendent of Public Works had stated that the South Warren Snowmobile Club had done a good job of maintaining the section of the Warren County Bikeway they used during the winter season, keeping the trail neat and clean, and said he looked forward to working with them during the next winter season. Mr. Merlino apprised that during the DPW portion of the meeting, the Committee had discussed the paving rates charged to the towns/village/city for paving services provided by County forces, leading them to approve proposed Resolution No. 175, *Establishing Paving Rate Calculation Method to be Charged to Local Municipalities for Work Performed by the Warren County Department of Public Works*. Concluding his report on the March 27th Public Works Committee Meeting, Mr. Merlino read aloud a reporting received from the South Warren Snowmobile Club indicating they had performed 323 hours of labor to prepare the snowmobile trail system during the fall of 2013; 737.5 hours of labor grooming the trails during 2013-14; and had paid \$67,422 in groomer payments, \$1,125 for bridge materials and trail signs, and \$42,163 for bills paid (*groomer fuel, snow phone, repairs to groomer, insurance*) at a total cost of \$110,710. Mr. Merlino noted that the Snowmobile Club had over 800 members and all work was completed by volunteers, none of whom received a salary.

With regards to the Tourism Committee Meeting held on April 2nd, Mr. Merlino advised Kate Johnson, Tourism Director, had presented a portfolio containing all of the publications made in 2013, copies of which were available in both the Tourism Office, and with the Clerk of the Board, for anyone wishing to review them. He continued that various print and digital ads for the upcoming seasons were displayed and it was noted that the Summer ad campaign would begin in late April. Mr. Merlino stated that advertisements had been placed on the Tourism website for the clean/drain/dry boat washing

procedures and pamphlets were also being forwarded to anyone requesting tourism information on area boating and fishing. Concluding his report, Mr. Merlino advised the Tourism Department planned to include a survey on their website aimed at obtaining information from both local and visiting sportsmen and women which could be used to assist Mr. Dickinson in his efforts to attract a high end sporting retail store to the area.

With regards to the recent Organics Management Workshop, Mr. Strough said he agreed Ms. Lamb had done an excellent job of organizing the Workshop and he said he anticipated they would see some future benefits relating to this initiative. Mr. Strough also thanked Ms. Lamb for her efforts, as well as the NYSDEC (*New York State Department of Environmental Conservation*) and the Town of Warrensburg for hosting the Workshop and he said he hoped to see more of these types of meetings in the future. He continued that he had attended the meeting recently held by Senator Gillibrand to discuss the region's economic needs, concerns and hopes for the future. Mr. Strough added that a lot of comments had been made during this meeting; he said he hoped efforts would be made to address some of the concerns presented and he stated his appreciation to Senator Gillibrand for taking the initiative to schedule this meeting. Chairman Geraghty apprised that Mr. Strough had approached him relative to a suggestion regarding a hazardous materials pickup day, which he asked Mr. Strough to share with the Board. Mr. Strough noted that from time to time he received questions from residents of the Town of Queensbury regarding the opportunity for a hazardous waste pickup and he noted that the last event of this sort held in the Town of Queensbury had been six or seven years prior. He continued that because there was a regional need for this type of service, he had contacted Chairman Geraghty to suggest that the County sponsor an event of this nature for all County residents. Mr. Strough concluded that in the past, the State had offered to fund half of the costs incurred for this type of hazardous waste disposal event and he said they could research the availability of this type of funding.

Mr. Sokol reported that the Health Services Committee had held several meetings during the past month, the first of which had been on March 28th to discuss Public Health business. He advised that during this meeting the Committee had discussed, among other things, the need to upgrade the laptops used by the Public Health nurses for compatibility purposes and to increase productivity. Mr. Sokol advised that due to the large expense associated with this upgrade, they planned to replace 25 laptops this year and another 20-25 each following year until all of the older units were replaced. He pointed out that proposed Resolution No. 211, *Authorizing the County Treasurer to Transfer Funds from the Computer Reserve Fund to Departmental Budgets for the Purchase of Computers and Related Equipment and Software and Amending 2014 Warren County Budget*, would authorize a transfer from the Computer Reserve to fund the purchase of the new laptops, if approved. Mr. Sokol advised subsequent meetings of the Public Health Committee were held on April 3rd, 9th and 15th to discuss the prospective sale of Westmount Health Facility and the co-generation facility. He said that on April 3rd, representatives from EnerNOC, Inc. had made presentations regarding the co-generation facility at Westmount and had presented a lot of information that included varying figures which were initially staggering and difficult to understand; he added that with the helpful assistance of qualified personnel, and input from Town of Queensbury resident, and electrical engineer, Travis Whitehead, the Committee had been provided a better understanding of what this information represented. Mr. Sokol advised the Health Services Committee would continue to meet to discuss the Westmount situation, as needed. He pointed out proposed Resolution No. 217, *Resolution Authorizing Proceeding with Negotiations for the Sale of the Westmount Health Facility*, stating his opinion that the Board should proceed in approving this resolution with the understanding that there would be more questions and discussion on the matter. Mr. Sokol noted that the process to entertain the sale of Westmount had begun two years ago and they were only now considering a resolution to authorize negotiations. He commented that Westmount was operating at a loss to the County and if they were to start this process over again, as some had suggested, it would only exacerbate the negative financial impacts. Mr. Sokol stated that if they were to undertake another RFP (*request for proposals*) process to re-bid the sale of the Facility, they

would have to consider the additional costs that would be incurred by the County in the meantime, regardless of whether the amount of the bid was increased. Mr. Sokol concluded that they could spend hours restating and discussing all of the information presented at previous Health Services Committee meetings; in the meantime, he said, proposed Resolution No. 217 would allow negotiations for the sale of the Facility to proceed while any remaining questions were answered.

Mr. Beaty apprised that he had attended the aforementioned Health Services Committee Meetings and had come away with a clear understanding that the co-generation facility needed to be removed from the Westmount sale. He noted there had been many recent newspaper articles indicating that the co-generation facility affected Westmount's sale price; he added that the majority of the members of the Board of Supervisors were in agreement that the Facility should be sold, but there was a difference of opinion on the strategy to be used for the sale. Mr. Beaty thanked Mr. Sokol for holding so many Health Services Committee meetings to discuss this issue and he re-stated his opinion that the co-generation facility needed to be removed from the Westmount sale.

Mr. Westcott stated that the Social Services Committee had not met during the past month, but would meet on April 24th. He advised that, unfortunately, he had a business trip scheduled for that date which he had been unable to reschedule and therefore had asked Ms. Wood to chair the meeting in his absence, which he thanked her for agreeing to do. Mr. Westcott commended Mr. Strough on his suggestion for a County-wide hazardous materials disposal event and said he looked forward to working with him on this initiative.

Mr. Thomas pointed out proposed Resolution No. 185, *Authorizing Disbursement of Funds from Capital District Regional Off-Track Betting Corporation to Warren County Soil & Water Conservation District*, advising that it would provide \$1,000 from the Regional Off-Track Betting Corporation to the Warren County Soil & Water Conservation District to fund the Envirothon Program which children from around the County participated in. He advised that he had also attended the Organics Management Workshop, which had been interesting and well organized, and he, too, thanked and commended Ms. Lamb for her efforts. Mr. Thomas commented that during the meeting they had been apprised of "green cone composting" units, which were installed partially below and partially above ground, that could be used by individuals for composting. Finally, Mr. Thomas apprised he had attended the Adirondack Park Local Government Day Conference in Lake Placid, NY on April 9th and 10th, where he had attended several seminars. He reported he had learned that the State Budget had allocated \$40 million to address the damage resulting from harsh conditions during the previous winter, \$142,000 of which had been earmarked for Warren County and would be added to their CHIPS (*Consolidated Highway Improvement Projects*) funding.

Ms. Wood apprised the Public Safety Committee had met on March 31st where they had heard a presentation from Brian LaFlure, Fire Coordinator/Director of the Office of Emergency Services, regarding the Adirondack Regional Interoperable Communications Consortium, which was very informative. She stated that this was a good program to be involved with and she noted that anyone wishing to review the information presented could obtain it from Mr. LaFlure. Ms. Wood continued that the Committee had also discussed the State mandated staffing increases for the Warren County Correctional Facility and eventually acted in favor of implementing a phased approach which would include the creation of seven new Corrections Officer positions effective August 1, 2014. She stated that a number of discussions had been held with regard to this matter and she said she hoped everyone would support the proposed resolutions presented with regard to this matter (*Resolution Nos. 198, Amending Table of Organization and Warren County Salary and Compensation Plan for 2014, and 215, Authorizing the Appropriation of Funds from the General Fund Unappropriated Surplus to the Sheriff's Budget; Amending 2014 Warren County Budget*).

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Mr. Conover advised the Finance Committee had met on April 9th, approving proposed Resolution Nos. 173, 174, 208-212, 215 and 217, all of which were included in the resolution packet. With respect to proposed Resolution No. 215, *Authorizing the Appropriation of Funds from the General Fund Unappropriated Surplus to the Sheriff's Budget; Amending 2014 Warren County Budget*, he reiterated Ms. Woods advisement that resolution represented the costs of implementing the first phase of creating the mandated increase in Corrections Officer positions; he added the State had mandated that a total of 23 new positions be created, 13 full-time and 10 part-time. Mr. Conover pointed out that the phased approach suggested was a reasonable approach to address the issue, but noted that regardless, the associated costs represented a cost of more than \$400,000 which was equal to about 1% of the County's tax levy.

With regards to the mandatory boat washing and inspection program implemented for Lake George, Mr. Monroe commented that the Town of Chester was undertaking similar procedures for Loon Lake, including gated inspection stations and frozen boat sealing. He said they had an agreement with the LGPC where each would recognize the others seal indicating that the boats had been inspected, which he believed was the beginning of a regional strategy to address and prevent the spread of invasive species between waterbodies. Mr. Monroe advised that at the recent Adirondack Park Local Government Day Conference, representatives from the Adirondack Park Invasive Plant Program and the Nature Conservancy had pointed out that pursuant to scientific review, it had been determined that a regional inspection plan would be most effective if the boats were inspected on the way out of the water.

Mr. Monroe advised the Adirondack Park Local Government Day Conference was well attended and had included good discussions on both invasive species issues, as well as with representatives of the North Country Health Systems Redesign Commission. He noted the discussions had related to the \$1 billion earmarked for regional re-design of the health care system and the potential impacts to other health care providers, which would be both positive and negative. Mr. Monroe apprised the Conference had included an awards category, during which the Town of Chester had won an award for their Rum Runners Weekend event.

Regarding the Gaslight Village Ad Hoc Committee meeting held on April 1st, which Mr. Merlino had chaired in his absence, Mr. Monroe apprised that Jeffery Tennyson, Superintendent of Public Works, had reported on the status of the Wood Park, indicating that construction work would resume at the end of the month and advising they expected the work to be completed prior to June 30th. He commented that the Village of Lake George would be holding a bid opening later that day for work to be completed under the TEP (*New York State Transportation Enhancement Program*) grant. Mr. Monroe noted a request from the Village of Lake George to fund the costs of an audit, which he estimated to be \$12,000, required by the State in association with TEP grant funding. He added that before authorizing payment of this expense from parking revenues they had decided to investigate and determine whether this was a grant-eligible expense and he questioned whether any new information was available relative to this matter, and Paul Dusek, County Administrator, replied in the negative. Finally, Mr. Monroe advised Mr. Tennyson had provided an update on the fuel spill found at the Wood Park and the subsequent environmental cleanup work required; he advised that a request was being sent to the Wood Foundation to request assistance in covering the cleanup costs.

Mr. McDevitt noted the presence of Kristine Duffy, Ed.D., President of SUNY Adirondack, and he welcomed her to the meeting. He noted that on April 11th he had attended the inauguration ceremony held for Dr. Duffy, which he said had been a wonderful event. Mr. McDevitt noted proposed Resolution No. 216, *Supporting the Start-Up NY Program at SUNY Adirondack*, and reminded the Board Members that he had provided a brief update on this initiative at the March 21st Board Meeting, following which Brian Durant, SUNY Adirondack Vice President for Academic and Student Affairs, had spoken on the

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matter, as well. He spoke about possible coordination between the City of Glens Falls and SUNY Adirondack as it related to establishing a program on a County-wide level to assist with paramedic certification, as well as to possibly enhance SUNY Adirondack's Culinary Arts program using the commercial kitchen and serving facility at the Glens Falls Civic Center and maybe prepare a monthly meal as a training exercise. Mr. McDevitt said he hoped to discuss both of these initiatives with Dr. Duffy in the future. He then asked Dr. Duffy to comment on SUNY Adirondack's Start-Up NY Program.

Dr. Duffy advised the first step in establishing the Program was for SUNY Adirondack to submit a campus plan outlining plans for attracting businesses, what types of businesses they were interested in and the process that would be used to approve/disapprove a business for the program. She said the next step would be to hold a 30-day comment period, which SUNY Adirondack was currently undertaking, following which they would collect comments, make any changes they felt were appropriate, and submit their final plan to SUNY for their review and approval; she added that after SUNY approvals were received, the plan would be submitted to the Empire State Development where it would become their official plan to be shared with any potentially interested businesses. Dr. Duffy stated that she welcomed any questions or comments the Board Members might have and she encouraged them to contact her directly.

Mr. Taylor began his report by stating his support for a hazardous materials disposal event sponsored by the County, assuming the associated costs were appropriate. He advised the Support Services Committee had met on April 2nd, approving proposed Resolution No. 186, *Authorizing Third Amendment to the Independent Contractor Agreement with Jacob Hume so that the Agreement Coincides with the Funding Appropriated in Resolution No. 49 of 2014*; he continued that the Personnel Committee met on April 9th, approving proposed Resolution Nos. 198-203, all of which were included in the resolution packet. Mr. Taylor announced that the Personnel Committee met once again on April 14th to hold interviews for the Personnel Officer which had been vacated due to retirement, following which they had unanimously decided to appoint Patricia Nenninger, First Social Services Attorney, to fill the vacancy. He noted that during his report, Joan Sady, Clerk of the Board, had distributed two un-numbered resolutions pertaining to this matter, the first entitled "*Waiving the Rules of the Board with Regard to the Requirement of a Two-Thirds Majority Vote of the Personnel Committee as Relates to the Filling of Vacant Positions as set forth in Letter D, Section 8 of the Rules of the Board*" and the second "*Appointing Personnel Officer*". Mr. Taylor explained the second un-numbered resolution would appoint Mrs. Nenninger to the Personnel Officer position, at an annual salary of \$66,940, for a six-year term which would commence as soon as possible.

Motion was made by Mr. Dickinson, seconded by Mr. Merlino and carried by majority vote, with Mr. Beaty voting in opposition, to bring the first un-numbered resolution, pertaining to the waiving of the Rules of the Board, to the floor. Mrs. Sady advised this would be proposed Resolution No. 218.

Motion was made by Mr. Dickinson, seconded by Ms. Wood and carried unanimously to bring the second un-numbered resolution, appointing the Personnel Officer, to the floor. Mrs. Sady noted that this would be proposed Resolution No. 219.

Mr. Kenny advised the Occupancy Tax Coordination Committee had met on March 28th where discussions had been held with Village of Lake George Mayor Robert Blais regarding streamlining the occupancy tax funding award process and he said those discussions would continue at the May Committee meeting. He apprised that funding totaling \$14,000 had been returned to the occupancy tax fund following the cancellation of the Country Music Festival sponsored by the Lake George Arts Project (\$10,000) and notification that the monies previously allocated to the Village of Lake George's Festival for the Lake event (\$4,000) were no longer necessary. Mr. Kenny advised the Occupancy Tax

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Coordination Committee had determined that this funding should be redistributed with \$10,000 going to the Village of Lake George for the American Music Festival and \$4,000 to the Shriners Circus; see *proposed Resolution No. 184, Amending Resolution No. 662 of 2013; Authorizing Agreements with Various Applicants for the Disbursement of 2013 Occupancy Tax Revenues.*

Mrs. Frasier reported on the March 31st meeting of the Human Services Committee, apprising that the Committee had voted in favor of filling three vacant positions with the Office for the Aging which were reflected in proposed Resolution No. 201, as well as in favor of authorizing various agreements for the Office for the Aging, as represented by proposed Resolution Nos. 191-194.

Mr. Merlino made a final comment under the DPW realm, noting that the Towns had received notification from NYSDEC (*New York State Department of Environmental Conservation*) indicating they were no longer allowed to perform open burning in their landfills which made it difficult for smaller towns to dispose of brush that had previously been burned. He stated that this situation was exacerbated by the frustration that NYSDEC allowed homeowners to obtain permits to perform backyard brush burning. Mr. Merlino questioned how other towns were handling their brush disposal and he pondered whether the towns could purchase a large grinder through the DPW Division which could be circulated amongst the towns to chop the brush for disposal; he added this might be a valid topic for discussion at a future Public Works Committee meeting.

Mr. Dickinson said he agreed with Mr. Merlino's concerns, noting that in the past, the Town of Lake George had performed brush burning in a large field where residents dumped their brush and it was then burned in one large fire, incurring almost no manpower or expense to the Town. He stated that he did not believe it was a good idea to allow residents to burn brush in their own yards independently and he agreed the matter should be discussed further at the appropriate Committee meeting. Mr. Dickinson commented another point to consider is that the use of a grinder would incur expenses to the towns and he noted that not only was the equipment expensive, it would require an intensive amount of manpower to operate.

Ms. Wood suggested that Jim Lieberum, Warren County Soil & Water Conservation District Manager, be involved in any discussions of this nature as previous conversations had been held during meetings of the Soil & Water Conservation District relative to the purchase of a grinder and circulation amongst various communities and she felt Mr. Lieberum might be able to provide some helpful insight and information on the matter. Ms. Wood noted that during the prior fall season extensive discussions had been held at an AATV (*Adirondack Association of Towns and Villages*) meeting with NYSDEC representatives regarding the safety of having one controlled burned versus hundreds of uncontrolled burns at residential homes, as well as the particle release into the air when inappropriate items were burned; however, she stated, these discussions had not been productive in changing NYSDEC's stance on the issue. Ms. Wood stated there were many groups working on this issue, due to the level of concern with the process.

Mr. Monroe stated that he believed there was a 50% matching grant available through NYSDEC to purchase a grinder unit and he said it might be possible for the County to finance the unit and the towns could contribute to the costs annually. He concluded that there must be a way to address the matter and they should consider it further. Chairman Geraghty apprised the Town of Warrenburg grinded the brush for their residents and he said this method contributed to composting.

Chairman Geraghty apprised that at the Adirondack Park Local Government Day Conference, discussion had been held relative to the State's tax cap and consolidation mandates. He said that a number of suggestions had been presented for consolidation of services, but noted that Warren County had

already implemented many of them in 2009 during the economic downturn. Chairman Geraghty stated he had referred a few of the suggestions for consolidation of services to the County Administrator for further review. He commented that he believed under the tax cap regulations, the State would allow a 1.45% budget increase for 2015, but would require 1% decreases for the years 2016-2018; he added that these regulations would apply not only on the County level, but for the towns and school districts, as well. Chairman Geraghty stated that, unfortunately, those municipalities that had done a good job of reducing budgets in prior years would have difficulty finding additional means for reductions and consolidation of services in future years, forcing them to make decisions that might not be popular.

With regards to the recent meeting held by Senator Gillibrand, Chairman Geraghty advised Ed Bartholomew, President of EDC (*Economic Development Corporation*) Warren County, had given a good presentation on economic development, and presentations were made by several other representatives listing the needs of the area. He said one thing they had discovered was that a considerable amount of Federal funding was provided to the State to be distributed to the local municipalities. Chairman Geraghty reported that he had apprised of Warren County's need for funding assistance with road and bridge work and he said he had already received an email from Senator Gillibrand's Office seeking to discuss the matter further. He concluded that this had been a hastily called meeting and provided only 40 minutes to speak with Senator Gillibrand, but said some good notes had been taken and he was sure they would be following up on them.

Returning to the topic of consolidation efforts, Chairman Geraghty apprised that in the future the towns would likely receive inquiries from the County Administrator's Office pertaining to suggestions of this nature. He noted that one idea being considered was the possibility of incorporating County-wide assessing and he advised that although there was not a concern with the current procedure used, the change to a County-wide system might present a way to consolidate services and attain a budgetary savings. Chairman Geraghty stated challenges would be faced at the County and town levels to conserve and reduce budgets and they might have to think outside the box to make these efforts.

Mr. Dickinson commented that he had spent the past three years working with Mayor Blais in an attempt to implement a consolidation of services between the Town and Village of Lake George and he noted that although this seemed like a good idea, it was much more difficult than they realized and did not provide as large a savings as one might think. As an example, Mr. Dickinson cited that the Town and Village of Lake George incorporated separate DPW crews for plowing services. He continued that the Village of Lake George was comprised of mainly flat roads with 90 degree turns for which smaller, single axle trucks were used to perform snow removal services; conversely, he stated, the Town of Lake George had longer roads which curved and covered mountainous regions requiring the use of larger double and triple axle trucks. Mr. Dickinson deduced that due to these factors they would need to continue the use of the same number of trucks and manpower, even if the services were consolidated. He advised that the Town and Village were trying desperately to consolidate services and had tried, unsuccessfully, to obtain grant funds for a number of consolidation services but had received no response. Mr. Dickinson agreed that the County had begun trying to consolidate services to attain budget savings a number of years ago and he noted that small communities tended to lose a certain amount of their hometown feel and control when these types of consolidation efforts were implemented. He concluded that this was going to be a tough process to undertake and he felt part of the problem was the need to educate the State that although this seemed like a good idea, it really wasn't as effective as anticipated.

Mr. Strough suggested that the County might be able to use the grinding of brush as a consolidation of services measure, possibly bringing a composting business into the arrangement who would remove

the resulting brush grindings. By implementing this suggestion, he advised they would be addressing the brush disposal issue and providing for a consolidation of services amongst the County and towns. Mr. Dickinson commented that the problem with this suggestion was that in the past, most of the towns had burned the brush at little cost without the need for extensive manpower or equipment; he added that if they were to undertake Mr. Strough's suggestion, they would have to purchase the necessary grinding equipment and then pay for the manpower to operate it which would incur an expense rather than a savings.

Mr. Monroe stated that Governor Cuomo's plan for budget reduction did not provide any relief for unfunded mandates passed down by the State, nor the additional financial pressures placed on the municipalities by State agencies, such as NYSDEC brush burning regulations and the increases in Jail staffing mandated by the Department of Corrections. He concluded that it was inconsistent for the State to require the municipalities to reduce their budgets while State run agencies were mandating increased services that would raise costs.

Continuing the agenda review, Chairman Geraghty called for the report by the County Administrator. Mr. Dusek apprised he had recently participated in a telephone conversation between the County Administrator's Administration and NYSAC (*New York State Association of Counties*) regarding the State tax cap and the New York State Budget. He said they had looked at the potential savings that could be generated to meet the tax cap for 2015, as well as the 1% decrease for future years, and they had talked about the various types of individual and joint efforts that could be implemented to achieve them. Mr. Dusek noted that a few months ago he had been charged by the Finance Committee with the task of reviewing an issue facing towns with small tax bases who were having trouble meeting their finances because their operational costs were equivalent to much larger towns. He said his Office was analyzing the County's activities and expenses in comparison to those of the towns, without formulating any conclusions. Mr. Dusek clarified that they were gathering information and reviewing it to determine where there were common denominators and possibly the opportunity to develop a global solution which would address the small tax based town issues, while meeting the tax cap requirements. He said he anticipated making further inquiries into various aspects of government in the towns in an effort to analyze what possible solutions were available, but also to see if they could do more to reduce taxes for Warren County residents. Mr. Dusek stated that he envisioned a number of surveys would be distributed during the information gathering process undertaken by his Office, and he advised that once this work was complete, the results would be shared with the Board of Supervisors.

Mr. Dusek apprised the Board of an issue with the Office space rented through the New York State Department of Labor (*NYSDOL*) at the Northway Plaza which was used to house the Employment & Training Administration (*ETA*) staff. He explained that in recent months he had been apprised of concerns with the weight of snow on the roof of the building, following which ETA staff were removed from the building until the landlord addressed the issue; he added that subsequent complaints were received regarding water leaking into the office, bad smells from wet carpeting and concerns regarding the possible presence of mold. Mr. Dusek advised that portions of walls had been removed and fans were placed in the office in an attempt to dry wet areas and mold testing was performed, the results of which indicated there was no concern for health or human welfare. He said he had remained in communication with the ETA Director and the NYSDOL, requesting a time frame for when all of the issues present would be resolved and he advised that although NYSDOL representatives had taken action to contact the building's landlord, this information had not been provided. Mr. Dusek stated that because an estimated time frame could not be provided, and the fact that the conditions in the building were affecting the allergies of ETA staff, during the prior week he had contacted the Chairman of the Board to suggest that the staff be moved to the Information Technology Training Room at the Human Services Building. He noted that on Monday morning, the staffing relocation had been performed very

quickly and efficiently, and at a very low cost, by the Buildings & Grounds staff whom he commended for their efforts. Mr. Dusek stated that they intended to house the ETA staff at the Human Services Building only as long as it took for the building repairs to be completed and they were looking to the NYSDOL to ensure this work was done. Additionally, he commented that he recommended, and intended to pursue, seeking a credit of rental costs for the amount of time the ETA staff had been relocated as it did not seem fair to pay rent when the space could not be used. Mr. Dusek advised that not all of the ETA office equipment had been moved to the Human Services Building, only those items that were necessary to continue business operations.

Mr. Dusek reported that the County's website was currently undergoing regular reorganization to improve the access point on the home page. He explained that changes were being made to provide easier access to Committee/Board meeting documents and he advised they would be working with the Department Head staff to incorporate procedural changes aimed at making the meeting agendas and notices available on the website in advance of Committee meetings. Mr. Dusek said that aesthetic changes would be made to the website, as well, to make it a more professional, but user-friendly site, which was a good advertisement for Warren County; he asked that anyone with comments, questions or recommendations for the website to contact his Office.

Finally, Mr. Dusek provided an update on the codification of County Local Laws and policies which was previously authorized by the Board of Supervisors. He said Mrs. Sady had done a good job of gathering all of the information to be codified and they were nearing the point where these documents would be submitted to the company that would transform the information into book form. Mr. Dusek stated that it would probably take another two or three months to complete the information gathering process, but said that through the review of the documentation gathered by Mrs. Sady he could already foresee the benefits the codified document would provide to the Board of Supervisors, County staff and the public, as well.

Chairman Geraghty called for the report by the County Attorney and Martin Auffredou, County Attorney, advised he had nothing to report, but advised he would require an executive session at the close of the meeting to discuss pending litigation.

Chairman Geraghty then called for the reading of communications, which Mrs. Sady read aloud, as follows:

Minutes from:

Warren/Washington Counties Industrial Development Agency and its Civic Development/Executive/Park and Governance Committees;

Monthly Report from:

Probation

Annual Report from:

Warren County Soil & Water Conservation District

Capital District Regional Off-Track Betting, February 2014 surcharge in the amounts of \$4,896;

NYS Office of Parks, Recreation & Historic Preservation, Recommending the nomination of Woodward Hall, 1312 Lake Avenue, Lake Luzerne to the NYS Register of Historic Places and also to the National Register;

Letter from County Attorney Auffredou, modifying prior designation filed by correspondence

WARREN COUNTY BOARD OF SUPERVISORS
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dated January 4, 2014 with respect to the appointment of Assistant County Attorney staff to remove Patricia C. Nenninger as Second Assistant County Attorney and reaffirm the appointment of Amy Bartlett as First Assistant County Attorney.

Continuing to the reading of resolutions, Mrs. Sady announced proposed Resolution Nos. 174-213 were mailed. She noted that proposed Resolution Nos. 199-203 related to the filling of vacant positions and she advised that unless a roll call vote was requested, all would be approved in the collective vote. Mrs. Sady advised a motion was necessary to bring proposed Resolution Nos. 173 and 214-217 to the floor.

Mr. Beaty stated his confusion and requested clarification as to why a waiving of the Rules of the Board had been required for proposed Resolution No. 218, concerning the appointment of the Personnel Officer, but was not required for the remaining resolutions which were not mailed to the Board of Supervisors earlier in the week (*proposed Resolution Nos. 173 and 214-217*). He commented that he was specifically concerned about proposed Resolution No. 217, *Resolution Authorizing Proceeding with Negotiations for the Sale of the Westmount Health Facility*, as he had not been provided sufficient time for review and consideration of the resolution.

Mrs. Sady explained that in the case of proposed Resolution No. 218, they were required to waive the Rules of the Board because the matter had not been acted on by the Personnel Committee in order to gain the necessary two-thirds vote. She further explained that those resolutions which were not prepared in time to be mailed in the resolution packets were numbered and placed in the Supervisors folders for presentation and review on the morning of the monthly Board Meeting. Mrs. Sady advised that because the resolutions were provided in writing, as required by the Rules of the Board, a motion and a second were required to bring the resolutions to the floor, but there was no need to waive the Rules in this instance.

Travis Whitehead, Town of Queensbury resident, said he believed that Rule No. 5 of the Rules of the Board required that all resolutions be mailed to the Board of Supervisors prior to the Board Meeting and indicated that a waiving of the Rules was required for any resolutions which were not mailed. Mrs. Sady responded by reiterating that a waiving of the Rules was not required for resolutions provided in writing at the Board Meeting, but only for those which the Board wished to act upon that were *not* provided in writing. Mr. Monroe agreed with Mrs. Sady's explanation, stating it was also his understanding that a waiving of the Rules was not required as long as the resolution was providing in writing either before or during the Board Meeting. Chairman Geraghty confirmed that the waiving of the Rules was not required for Resolution Nos. 173 and 214-217.

Motion was made by Mr. Dickinson, seconded by Mr. Monroe and carried unanimously to bring proposed Resolution Nos. 173 and 214-217 to the floor.

Chairman Geraghty called for discussion on resolutions or requests for roll call votes.

With regard to proposed Resolution No. 210, *Amending Proposal and Authorizing Agreement with Televate, LLC for Public Safety Communications Consultant Services for the Warren County Sheriff's Office (WC 099-14)*, Mr. Thomas noted that the contract costs were estimated at \$32,925, but this figure was not reflected in the resolution and he requested that it be inserted. Mrs. Sady responded that the amount was approved by the Public Safety and Finance Committees and she advised the resolution could be amended through a Clerk's Correction to include the contract amount after the meeting.

Mr. Beaty requested roll call votes for proposed Resolution Nos. 207, *Rescinding Resolution No. 691 of 2005 Authorizing Commencement of Civil Action for Determination of County's Easement Rights - Floyd Bennett Memorial Airport - Warren County, New York*, and 217, *Resolution Authorizing Proceeding with*

Negotiations for the Sale of the Westmount Health Facility. With regards to proposed Resolution No. 207, Mr. Beaty opined that it made no sense to rescind Resolution No. 691 of 2005, which he said was unanimously approved by the Board of Supervisors in 2005, as he felt this only weakened the County's case when negotiating or seeking rights to previously purchased easements. As for proposed Resolution No. 217, Mr. Beaty stated he had a number of issues with pursuing the sale of Westmount Health Facility; he commented that while he was in favor of the sale of the Facility, he was not in favor of doing so if the sale was connected with the co-generation facility. He commented that following the review of a considerable amount of documentation and presentations by representatives from EnerNOC, Inc. on the co-generation facility, it was his understanding that it would be advantageous for the County, and its taxpayers, to separate Westmount from the co-generation facility before selling. Mr. Beaty referred to an article printed in that morning's edition of *The Post Star* which indicated one bidder for the purchase of the Westmount Health Facility, *Fort Hudson Health System*, had encountered serious concerns about the co-generation facility being included in the Westmount sale. He said this reinforced the opinion that the low valuation of the Facility and the lack of bidders was attributed to the inclusion of the co-generation facility. Mr. Beaty noted that Saratoga County had received seven bids for the sale of their nursing home once the co-generation facility was separated, while Warren County had received only four proposals for Westmount and a couple of those had dropped out. In addition, Mr. Beaty stated he had several serious concerns with voting on the resolution to proceed in negotiating the sale of Westmount to Specialty Care which included guaranteeing the transfer of Medicaid payments to the buyer, which would limit the ability for the County to litigate against Siemens, as per language included in the Siemens contract, and the possibility that the County was not receiving the true value of the nursing home in the Speciality Care bid. He commented that buyers typically preferred business dealings to be clear and clean cut, and this obviously was not the case for Fort Hudson who had considered the attachment of the co-generation facility to be a great concern.

Chairman Geraghty stated he respectfully disagreed with the information provided in *The Post Star* newspaper article, advising that he had attended the meeting with Fort Hudson to discuss their bid, and at no time had Fort Hudson indicated a desire to include the co-generation facility in the Westmount sale. He noted that the RFP had not required the buyer to assume the lease payments for the co-generation facility and he did not believe this issue had affected the bid price submitted. Chairman Geraghty advised that during the discussion period with each bidder, a question had been posed with regards to whether the bidder was interested in the co-generation facility and Fort Hudson had declined. He said he was unsure how the co-generation had befuddled the bid, as reported in *The Post Star*, because the purchase of the co-generation facility was not included as a caveat to the purchase. Chairman Geraghty reiterated that he had attended all of the meetings with the prospective buyers and had taken notes on the discussions with each bidder.

Mr. Beaty questioned whether the co-generation facility was included in the RFP released for the sale of Westmount Health Facility and Mr. Auffredou replied that although the RFP had described in general terms that the Facility was powered by a co-generation unit, it was not included in the RFP as part of the purchase. Mr. Beaty reiterated that the inclusion of the co-generation facility in the Westmount sale had led Fort Hudson to withdraw from the bidding process and Chairman Geraghty responded that he believed the gentleman quoted in *The Post Star* article was mistaken in his recollections as he recalled, and his notes clearly stated, that Fort Hudson had indicated they had no interest in the co-generation facility when questioned on the matter.

Mr. Dickinson commented that his issue of the Westmount sale had nothing to do with the issue at hand, and he stated he was more concerned with the fact that the Facility had been opened to provide a service to the people of Warren County and they were now considering selling it because of the negative economic factors involved. He said that while he understood this point of view, and those in favor might be right about the sale, he would point out that the Lake George Emergency Squad

represented a large cost to the Town of Lake George, but said he would never consider selling it, unless faced with a dire circumstance, because it represented a service to the residents of Lake George, as well as to area tourists. Mr. Dickinson stated he felt the same way about Westmount, in that regardless of the loss it incurred, this Facility offered an alternative to the aging population of Warren County; he added that he feared selling the Facility to a private entity might lead to a diminished quality of the care provided in order to make a profit, while eliminating any control the County had over the Facility. With regards to proposed Resolution No. 207, *Rescinding Resolution No. 691 of 2005 Authorizing Commencement of Civil Action for Determination of County's Easement Rights - Floyd Bennett Memorial Airport - Warren County, New York*, Mr. Dickinson stated that the County had entered into a contract for the purchase of easements in the 1940's which included language indicating that the maps would be filed with the County Clerk's Office; he noted that the filing requirement had not been met, thereby violating the agreement and making it null and void. He apprised that he had been practicing land surveying for more than 50 years and said he would be offended if the County believed they had the grounds to sue people for the rights to this property and he would not support such actions. Mr. Dickinson stated that these people owned the property, the problem with the easement was the County's, not theirs, and the way to rectify the situation was to approach them and offer a reasonable offer based on current property values for the easement rights sought. He said he was not concerned with the map issue and felt they should move ahead in securing the necessary easements immediately.

Mr. Brock requested clarification as to whether the bid for Westmount Health Facility was unaffected by the co-generation facility and Chairman Geraghty responded he believed this was the case. Chairman Geraghty explained that in their discussions with the RFP respondents, each bidder was asked five questions, one of which was whether they were interested in the purchase of the co-generation facility; Mr. Sokol interjected that a second question had been whether they were willing to change the status of the Facility to make it a taxable property. Chairman Geraghty stated that while he could not say whether the co-generation facility was a factor in their minds, he could confirm that Fort Hudson had stated, emphatically, that they were not interested in maintaining the co-generation facility and their bid was based on what they would offer for the nursing home purchase as they had presented a separate bid for the purchase of the surrounding property. Mr. Brock stated he had concerns mirroring Mr. Dickinson's that the level of nursing home care might have to be reduced in order to achieve a profit, the level of which might be negatively affected by the use of the co-generation facility. Mr. Brock stated that he was not necessarily opposed to the sale of the nursing home, but said he had some cost-related concerns he would like to be addressed before he would feel comfortable voting in favor of a resolution of this nature. With respect to Resolution No. 207, *Rescinding Resolution No. 691 of 2005 Authorizing Commencement of Civil Action for Determination of County's Easement Rights - Floyd Bennett Memorial Airport - Warren County, New York*, Mr. Brock apprised that because his wife worked for Rich Air, the Fixed Base Operator, he intended to abstain from the vote.

Chairman Geraghty commented that Mr. Dusek and Lloyd Cote, Administrator of Westmount Health Facility, had visited some of the nursing homes run by Specialty Care unannounced and found them to be in good operation; he added that based on these visits and discussion with staff at these facilities Mr. Dusek had felt comfortable in recommending the sale of Westmount to Specialty Care.

Mr. Strough stated that he had great respect for Chairman Geraghty's recollections regarding prior discussions with bidders for the sale of Westmount and valued his opinions, but said he had some residual concerns regarding the possible impact of the co-generation facility on the Westmount sale. Additionally, he questioned whether the current zoning had an impact on the bid price, as well as what understanding had been reached with Specialty Care regarding the adjacent property which, if zoned properly, could bring a considerable revenue to the County. Finally, Mr. Strough asked if the contract wording regarding the guarantee of Medicaid payments to Specialty Care had been crafted in a manner that provided a comfort level for the County. Given these concerns, he questioned whether it might

be appropriate to delay the resolution for a month or so to allow time to address them before proceeding.

Speaking as the Budget Officer, Mr. Thomas stated the process to sell Westmount Health Facility was started about a year and a half ago, when the RFP was sent out to more than 160 potential bidders, with four responses being returned. He advised that when the discussions were initially held regarding the sale he had not been in favor because he felt the Facility served a purpose for Warren County; however, he stated, if one were to consider the financial aspects, it represented a loss to Warren County. Mr. Thomas advised budgetary losses projected through 2017 had been one of the driving forces behind the decision to pursue selling the nursing home. He noted that for 2014, they had budgeted close to \$675,000 in surplus funds for Westmount, but at a recent Health Services Committee meeting, Betsy Henkel, Comptroller for Westmount Health Facility, had indicated a current balance of only approximately \$125,000 in surplus funds, which was a loss of about \$550,000 already. Mr. Thomas pointed out that for 2015, they anticipated a shortfall of about \$780,000 that would have to be addressed in that budget year. Furthermore, he noted the County was currently two years behind in the receipt of IGT (*Inter-governmental transfer*) funding for Westmount, which the County had been covering through a loan from the General Fund, and he advised a total of \$3.8 million in IGT funding was owed to Westmount. Mr. Thomas commented that these shortfalls, coupled with uncertain sales tax revenues, the costs associated with mandated staffing increases at the Jail, fluctuations in health insurance and retirement costs and what was likely to be a multitude of additional unknown expenses, had the potential to cause serious negative effects on the County Budget. He stated that while selling Westmount was not a popular decision, and not exactly one that he would prefer, he believed it was a necessary step for Warren County. Mr. Thomas continued that they had closely reviewed the four bids received before selecting Specialty Care and he said delaying the negotiation process would only allow the deficits at Westmount, and the cost to Warren County, to grow. In conclusion, Mr. Thomas stated his opinion that they should move forward rapidly with the sale of the nursing home.

Mr. Dickinson pointed out that proposed Resolution No. 217 would authorize negotiations for the Westmount sale to proceed but did not finalize the sale altogether. He stated that during the negotiation period they could continue discussions and pose questions on the matter, with a vote to finalize the sale agreement to be taken at a later date. Mr. Taylor agreed with Mr. Dickinson's statements, reiterating that approving proposed Resolution No. 217 did not mean they were finalizing the sale agreement and that there was no way to avoid it. He pointed out that the sale had been discussed for the past two years and consideration had been given to the associated ethics and whether the residents would be properly cared for, leading them to request unannounced visits to Speciality Care-run facilities be made, which had resulted in rave reviews. Mr. Taylor said the State of New York had strict controls over the operation of nursing home facilities whether they were privately or municipally run. He concluded that he was comfortable with the intent of proposed Resolution No. 217 and he suggested that the resolution be approved so that negotiations could begin while they continued to investigate the questions posed.

Mr. McDevitt said he was very uncomfortable with approving proposed Resolution No. 217. He advised that about 25% of the staff employed by Fort Hudson were Warren County residents with great reputations and he said he had been concerned by the article printed in *The Post Star* which basically indicated Fort Hudson, as a not-for-profit agency, had decided against purchasing Westmount when they had discovered that upon the purchase the Facility would become to a taxable property, essentially requiring the Facility to be run in a profitable manner.

Mr. Dusek said he had also read the article and agreed Mr. McDevitt had correctly elucidated the statements made by the Fort Hudson representative. He continued that there seemed to be some

confusion as to whether the original bids for the Westmount sale were impacted by the co-generation Facility and he said it was his impression from everything he had seen, including the information continued in the RFP documents, the answer was no. Mr. Dusek stated that the RFP had reported the presence of a co-generation facility at Westmount, but had made no reference to taking over the lease payments therefor; he added that when questions were presented relative to the RFP documents, none had pertained to any facet of the co-generation facility, nor had any concerns of this nature been raised during the presentations made by the bidders. He apprised that the first time the issue of the co-generation facility was raised was during the meetings between the negotiating team and the bidders to try and enhance the bids submitted. Chairman Geraghty interjected that, as per his notes, Fort Hudson had expressed an interest in expanding services using the surrounding property, but had only offered an additional \$150,000 for the parcel, which was deemed unsatisfactory.

Mr. Dusek stated that during these meetings they had talked about whether or not the property would be returned to a taxable status, thereby providing additional income to Warren County through property tax assessments, and Fort Hudson had said they would not make this change, while Specialty Care had said they would. He noted that the bid offered by Fort Hudson had been \$2,050,000 for Westmount (*plus an additional \$150,000 for the purchase of the adjoining property*) without a change to taxable status, while Specialty Care had offered \$2.2 million for Westmount and had stated they were willing to change the facility to a taxable status, which enhanced their offer. The next issue the negotiating team addressed, Mr. Dusek stated, was whether the bidders were willing to take over the lease payments for the co-generation facility to continue Medicaid reimbursements; he advised Specialty Care had initially suggested that the County continue to make the lease payments and retain the Medicaid reimbursements, while Fort Hudson had not expressed any interest. Mr. Dusek stated that this information supported the negotiating teams opinion that Fort Hudson's offer of \$2,050,000 represented their bid as if the co-generation facility was not included because they were not going to continue to operate it. He pointed out that this amount was consistent with the \$2.3 million estimated valuation for Westmount indicated by analyses performed by Michael McCarthy, of McCarthy & Conlon, LLP who served as the independent auditor for Westmount Health Facility, and Michael Swan, County Treasurer, which were performed independent of one another.

Mr. Dusek said suggestions had been made to stop the current bidding process, remove the co-generation factor from Westmount and release a new RFP in hopes of receiving a higher bid for the purchase of the Facility. However, he noted, if the bids already submitted and the estimated values presented by Messrs. McCarthy and Swan were any indication, they were likely to receive bids of the same amount, while possibly exposing the County to a \$1 million liability by removing the co-generation facility. Mr. Dusek stated that while they may be able to avoid incurring the \$1 million liability, they would have delayed the sale by repeating the bid process and incurred additional operational costs to the County, as previously mentioned by Mr. Thomas. He stated his personal opinion that the current bid presented a winning scenario for the County with a buyer who was willing to pay \$2.2 million for Westmount and change it to a taxable status, as well as to fund a feasibility study regarding use of the surrounding property for elderly care services, with input from the County.

Mr. Dusek summarized that although the initial bid process had not included the co-generation facility, it had been discussed during subsequent conversations with the bidders in an effort to protect the County and put them in the best possible position so that if there was an opportunity to have the co-generation facility paid off through Medicaid reimbursements, it could be taken. He said that while there were some issues and possible holes in this plan, they would be facing the same exposures if the County continued to own the facility due to the State's changes from its current Medicaid formulas to managed care. Mr. Dusek stated the only reason he could see to not proceed in accepting this offer would be if they were confident that a much higher bid would be received if the sale was re-bid, enough

so to cover the losses that would be incurred in the meantime. He said he had not seen any evidence that a higher bid would be received and, in fact, the estimates received were within the range of the bid being considered; therefore, he stated, it did not make any sense to postpone the sale further. With respect to the Siemens contract, Mr. Dusek advised that, as they had continuously maintained, regardless of the sale of Westmount Health Facility, the County would preserve its rights to make claims against Siemens and they would be pursued, if an opportunity was identified.

Chairman Geraghty commented that he had reviewed his notes and found a copy of a letter dated May 23rd, which was sent to the three RFP respondents interviewed, indicating that the negotiating team intended to discuss the co-generation facility with them. He added that anyone wishing to see the notes he had taken on the meetings was welcome to read them.

Mr. McDevitt suggested that the County politely reach out to Siemens and state that they would like to end their agreement and request that they come remove the co-generation equipment and conclude their contract. He said that although the idea might seem to be somewhat naive, it was possible that Siemens would agree to the request and eliminate the problem. Mr. Auffredou responded that while this was a possibility, it did not mean that the Board should not act to approve proposed Resolution No. 217 to proceed with the negotiation process in the meantime; Mr. McDevitt countered with his opinion that acting on the resolution proposed was not a good idea. Mr. Auffredou confirmed that proposed Resolution No. 217 had been carefully crafted to follow the direction provided by the Health Services Committee to move the negotiation process forward, but include exit strategies that could allow the sale to be avoided if they were not happy with the direction the process took. He said the resolution indicated that the negotiating team, with the assistance of special counsel, would move the process forward and draft contract documents, but would reserve all the rights and options of the Board so that they could change the course of action in the future, if they decided to. Mr. Auffredou added that discussions with Siemens could be held parallel to the negotiation process.

Mr. McDevitt questioned whether there were any other Counties in the State of New York, or the Country at-large, that would guarantee Medicaid payments in the manner proposed and he stated that this was a dangerous direction for the County to proceed in.

Mr. Westcott read aloud portions of a report he had prepared regarding the sale of the Westmount Health Facility, indicating that while he continued to support privatization of the nursing home and understood the financial challenges the Facility presented to the County, he questioned why they were not taking a harder look at the Airport and Countryside Adult Home which also operated at deficits. He commented that many different figures and engineering reports concerning the co-generation facility had been presented and he encouraged the members of the Board of Supervisors to meet with Mr. Whitehead and accept his assistance in an effort to gain a better understanding of this information. Mr. Westcott referred to a portion of the EnerNOC report which indicated that it would be almost \$500,000 more expensive to continue operating the Westmount Health Facility using power supplied by the co-generation facility for the next eight years than it would be to return to the electrical grid and he questioned why, knowing this information, anyone could justify continuation of the co-generation facility. Mr. Westcott stated that given the new information received regarding the reasons that Fort Hudson had removed itself from the bidding process, and his desire for the Board of Supervisors to have been given an opportunity to weigh in on the selection process, he asked that proposed Resolution No. 217 be tabled. He concluded that he was not calling into question anyone's integrity, just the process used. *A copy of Mr. Westcott's report is on file with the items distributed at the Board Meeting.*

Mr. Dusek agreed it was not likely that a buyer would be willing to incur an additional cost for operation of the co-generation facility on top of the purchase price and he said the only reason

Specialty Care was willing to become involved with the lease payment and reimbursement schedule was because they were able to show them that based on EnerNOC's reports for 2015-2021 they could operate the co-generation facility without incurring a loss because the scheduled Medicaid reimbursements for this term and the lease payments were about the same amount. He noted that one of the other proposals had been to modify the technical support fees to adjust the costs and make the deal better. Mr. Dusek stated that initially, Specialty Care had suggested that the County continue to make the lease payments and retain the Medicaid payments, but he said they wanted to make sure Specialty Care was obligated to maintain co-generation operations in order to protect the County and ensure Medicaid reimbursements. He said this arrangement was not requiring Specialty Care to assume additional costs as he was sure they were seeing the lease payments and Medicaid reimbursements to be a wash. Mr. Dusek stated there were concerns and issues about future Medicaid payments and he said there had been problems in the past with a lack of payments; however, he said, Saratoga County had commenced administrative proceedings against the State of New York, which they had eventually won and from which Warren County had subsequently benefitted as payments had been released for the reimbursements they were entitled to in association with the co-generation project and he said he believed there was a reasonable expectation that the funds would continue to be received. The problem, he continued, was with regard to uncertainty about long term payments as there was some risk in the later years because of the change to managed care. Mr. Dusek stated that the important point to keep in mind was that if the County retained ownership of Westmount, they would risk the same exposure, and he noted that regardless of whether the County retained or sold the Facility, they would retain the same rights in terms of the ability to pursue claims against Siemens.

Mr. Brock stated that he was not for either discontinuing the co-generation facility, nor suing Siemens, but rather to work with Siemens to improve costs and possibly implement a varied approach that would allow electricity to be purchased from the grid when appropriate. He said once this was addressed, it might improve the County's position in selling the Facility and they could return to the initial bidders to determine why the highest bidder retracted from the process. Mr. Brock stated that pursuing a lawsuit usually ended up costing more than was recovered, and instead, he would like to explore the other options available before proceeding with the negotiations for the sale of Westmount.

Mr. Vanselow recalled discussions in prior years regarding the possibility of privatizing Countryside Adult Home, at which time it had been revealed that the only way for a potential buyer to operate the facility at a profit would be to reduce the costs of payroll. He said he suspected the same principal was true with respect to the sale of the Westmount Health Facility, which employed a number of staff that received a certain level of salary and benefits. Mr. Vanselow cautioned that when talking about the sale of Westmount, they were affecting the lives of these employees whose future employment would be in question and he had not heard much about how they would be affected. He stated it was important to remember that there were very few services provided by the County which did not incur a cost and he commented that the municipality existed to provide services to its constituents, many of which could potentially be privatized.

Mr. Merlino stated that the smaller towns of Warren County could not afford higher taxes and they now had the State's mandated tax cap reductions to consider. He commented that no one could guarantee what the future held and which decision would have the best future impact for Warren County as many of the numbers presented were subjective. Mr. Merlino stated it was possible that they could proceed with the negotiations for the Westmount sale and find out that they had moved in the wrong direction, but he felt that stopping the proceedings now might hurt the County taxpayers in the long run.

Mr. Monroe asked if the Medicaid reimbursements were based on the number of residents and Mr. Dusek replied affirmatively, noting that part of the sale arrangement would require a certain level of

residency in order to guarantee the Medicaid rate. Mr. Dusek explained that if Specialty Care did not maintain the specified Medicare residency rate, the terms of the guarantee would not be met; he noted that the language outlining the terms of this arrangement had not been established yet. Mr. Monroe said it was his understanding that the IGT funding was paid from a pool of monies and he believed that because a number of municipally owned nursing homes had become privatized, the share of funding provided to Westmount could increase. Mr. Dusek responded that Mr. McCarthy had commented on this topic and said an increase in the IGT funding could occur but there were concerns with unknown factors, such as how the Affordable Care Act would affect the IGT funds which were provided from a pool of money shared by the Federal Government and the State. Mr. Dusek added that the Federal Government/State could decide to use those funds to cover the gap between the amount of funding allocated for Medicaid costs and the actual expenses. Mr. Monroe noted that the North Country Health Industry Redesign Commission was holding discussions specific to how they could assist nursing homes, and funding had already been provided to help four different nursing homes. He said he was unsure how this situation would work out, but noted there was a total of \$1 billion available to assist with health care needs in this area.

Mr. Beaty said he agreed with Mr. Merlino's statement that County residents could not sustain any further tax increases, and that was one of the reasons he was not in support of purchasing additional property at the Airport, some of which was located in Washington County, in order to provide the ability to trim trees. He noted that during his statements, Mr. Dusek had mentioned the word "risk" twelve times and he felt the risk was a big concern in the deal for the Westmount sale. Mr. Beaty acknowledged that some risks were good, while others were not, and if the County Administrator was concerned with risks, the Board of Supervisors should be, as well. Mr. Beaty said he believed the County's matching payment for IGT funds was 38.5% and both Mr. Thomas and JoAnn McKinstry, Assistant to the County Administrator, confirmed it was 50%. Mr. Beaty commented that Specialty Care might become disillusioned with the sale once they learned of some of the hidden costs related to the co-generation facility, such as the fact that the Siemens maintenance contract only provided for the costs of labor and they were assuming co-generation equipment which was ten years old and had run constantly, and they were likely to encounter serious maintenance issues which would incur considerable costs. He concluded that the contract would only require Westmount to remain in operation for five years after the sale, at which point they could choose to close the Facility. He stated that in light of prior comments regarding the future of County employees, this was a considerable concern.

There being no further discussion on resolutions, Chairman Geraghty recalled that a motion was necessary to bring proposed Resolution Nos. 173 and 214-217 to the floor; the necessary motion was made by Mr. Dickinson, seconded by Mr. Monroe and carried unanimously.

Chairman Geraghty called for a vote on resolutions, following which Resolution Nos. 173-216, 218 and 219 were approved. Resolution No. 217, *Resolution Authorizing Proceeding with Negotiations for the Sale of the Westmount Health Facility*, failed by a vote of 499 in favor (*Supervisors Conover, Monroe, Taylor, Kenny, Frasier, Simpson, Dickinson, Merlino, Sokol, Thomas, Wood and Geraghty*), 378 opposed (*Supervisors McDevitt, Brock, Vanselow, Strough, Beaty and Westcott*), and 123 absent (*Supervisors Girard and Seeber*). A proclamation naming May 1, 2014 as Law Day in Warren County was submitted.

Continuing with the agenda review, Chairman Geraghty called for announcements, but none were made. Privilege of the floor was then extended to the members of the public wishing to address the Board.

Dean Boecher, Town of Queensbury resident, commended the Board of Supervisors for taking the time

to discuss and consider the information surrounding the co-generation facility and the Westmount Health Facility and he said he hoped these discussions would continue. He noted that businesses periodically underwent self-evaluations and he stated that although the Board, and its Committee sub-structure, had been working well, he felt it was time for the Board to undergo an evaluation of this nature. Mr. Boecher stated that all of the members of the Board of Supervisors had expressed a desire to save taxpayer dollars and he suggested that one way to do this would be to reduce the membership of the Board of Supervisors; he estimated that reducing the Board of Supervisors by five members would save \$1 million over ten years. Mr. Boecher apprised that in order to make this reduction, he believed they would need to change to a legislative form of government and might become more efficient. He said he did not know of any major corporation that had a Board of Directors comprised of 20 members and he stated that he believed they could get by with fewer people. Mr. Boecher concluded that he hoped the Board would consider his suggestion and bring the idea before the appropriate Committee.

Mr. Whitehead thanked the Board of Supervisors for the action to vote down proposed Resolution No. 217; he stated that he did not believe this matter had come to a close and he asked the Board to consider involving allowing more public input in future discussions regarding this matter. Mr. Whitehead pointed out that Westmount had opened in 1981 and he assumed there had been quite a bit of discussion as to whether the County should involve itself in these types of operations and 30 years later, he said that the public should be involved in this situation, as well.

With regards to the information provided by Mr. Thomas earlier in the meeting, relative to financial losses at Westmount totaling in the neighborhood of \$600,000 to \$700,000 annually, Mr. Whitehead pointed out that if they were to remove the losses attributable to the co-generation facility, those numbers would decrease to the range of \$150,000 to \$250,000; he added that although this was still a loss, it was easier to represent as one that the County was expected to provide as a benefit to some of the most needy County residents. He said he hoped there would be more discussion with regard to this point and he noted that it was not unrealistic to think the co-generation losses could be eliminated. Mr. Whitehead stated that for the majority of the last ten years, the County had been forwarding monthly payments of about \$38,000 to Siemens, regardless of the information provided by several engineering reports indicating that Siemens had delivered a defective system. He commented that if similar defective equipment was installed in an individual's basement, they would not be likely to continue making payments if advised about the ineffectiveness of the equipment and that was why he did not understand why the County was not pursuing this situation more aggressively, especially in light of the fact that Siemens had indicated there were provisions in the contract for items such as this to be discussed and questioned why the County had not approached them on this topic.

Mr. Whitehead proceeded to list his concerns with regards to statements made earlier in the meeting, the first of which was that no one had raised questions with regards to the co-generation facility. He noted there were five prospective bidders that had not submitted an offer and he commented that some of the lack of bids could have been attributed to the co-generation presenting itself as a type of albatross that they did not want to deal with. Mr. Whitehead added that it was impossible to state the presence of the co-generation facility had not deterred some parties from bidding on the Westmount purchase. Mr. Whitehead noted that Zenith Care Health Group had purchased Saratoga County's nursing home for \$14.1 million and agreed to invest another \$2.5 million in projects the community felt were valuable. He continued that Fort Hudson had expressed an interest in investing additional monies in the campus surrounding Westmount, but when asked to pay for the co-generation facility they had been clearly opposed to the idea, essentially indicating that they expected the facility would come with power; Mr. Whitehead commented this idea was akin to the idea of asking a new home buyer to assume the mortgage of the previous owner, which did not make sense. Referring to a comment he

said Mr. Dusek had made earlier in the meeting, indicating that Fort Hudson did not want to operate the co-generation facility, and he said that clearly this sounded different than the comments made at a previous meeting where he had indicated that the co-generation facility was never a concern; he said he thought there was a difference between not telling a lie and not telling the truth. Chairman Geraghty requested that Mr. Whitehead refrain from making personally pointed comments against staff.

Continuing, Mr. Whitehead read facts from the Siemens contract, noting that in the beginning Siemens had estimated the total energy cost for the Westmount campus was \$223,000, but a year later in a pro-forma document they indicated that the savings would be \$256,000 in energy, which did not make sense as the total cost was more than the savings. The difference between the two pro-forma's, he said, was that the first pro-forma, which was included in the Certificate of Need, indicated a repayment over almost 42 years, which was not acceptable, while the second reflected re-payment over 13 years, which was acceptable and the contract was signed. Mr. Whitehead stated that the savings information provided by Siemens was fraudulent and he stated that this information had been kept from the public due to the following confidentiality clause included in the Siemens contract in Article 6.2:

"...the client acknowledges that the technical and pricing information contained in this agreement is confidential and proprietary to Siemens and agrees not to disclose it or otherwise make it available to others without Siemens' express written consent."

Mr. Whitehead advised that this clause did not remain in the Siemens contract as it was revised upon review by the County Attorney's Office by amendment dated June 28, 2004, written as follows:

"...the client acknowledges that the technical and pricing information contained in this agreement is confidential and proprietary to Siemens and agrees not to disclose it or otherwise make it available to others except as may be required by the Freedom of Information Law of the State of New York and any other applicable or Federal Laws and then without not first notifying Siemens of any requests for information regarding the project and providing seven day notice before issuing any information."

Mr. Whitehead stated that this language went out of its way to continue to protect Siemens as it was very difficult to dispute contractual terms and information that were unavailable for review. He advised there were other parts of the contract that caused concern that he said he had reviewed at a prior Health Services Committee meeting, such as clauses in the Siemens contract indicating that the contract could not be transferred to a third party without the express consent of both Siemens and Warren County which would make it difficult to negotiate claims post sale. Also of concern, he stated, was the fact that the Performance Assurance Report was built into the framework of the contract and served as the County's only chance at recovering any of the funds expended and he read aloud the following contract excerpt:

"The performance guarantee is dependent upon and is subject to the express condition that the client enter into and maintain, during the entire term of the performance guarantee period, the performance assurance TSP. If the client fails to enter into, breaches, cancels or otherwise causes the termination of the performance assurance TSP, this performance guarantee shall terminate immediately and be void and of no force or effect."

Mr. Whitehead concluded that if having not read the contract sufficiently at the beginning of the process had gotten the County into their current situation, he would suggest that they start reading it closely now, before the situation was exacerbated.

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Kathleen Sonnabend, Town of Queensbury resident, noted that she had distributed a document at the beginning of the meeting providing sale prices for nursing home facilities located in surrounding counties, *a copy of the document is on file with the documents distributed at the Board Meeting*. She pointed out a typographical error in the document, advising the first asterisk indicated the figures had been reported at the April 3rd Health Services Committee meeting and it should have read April 9th; otherwise, she added, all of the information provided was accurate. Ms. Sonnabend said she sympathized with the members of the Board of Supervisors on the level of confusion they felt regarding the co-generation issues, noting that she had been researching the matter since 2007. She recalled that the April 9th Health Services Committee meeting had included an extensive presentation by Mr. Dusek where he had specifically asked Messrs. McCarthy and Swan to confirm the information provided at certain points; she commented that during this presentation, the thought had occurred to her that if she had not known what was really going on with the co-generation facility, she would have been in favor of the Westmount sale, as well. Ms. Sonnabend acknowledged this was a very tough situation because the Supervisors could not be experts at everything, but she noted there were a number of individuals from the public with qualified credentials who had spent their own time and energy analyzing the co-generation facility in detail and were trying to alert the Board to certain key issues. She stated that the Supervisors were repeatedly receiving presentations by their leadership which either confused the facts or lead to the wrong conclusion. Ms. Sonnabend asked the Board to closely review the information she had presented, pointing out that the first column listed the sales price information provided to the Health Services Committee on April 9th which had substantiated the valuation for Westmount provided by Mr. McCarthy; she added that three of the figures listed were grossly under-reported as the facilities had sold for almost twice the amount listed.

Ms. Sonnabend advised that although she was not one to brag, before she moved to Warren County she had worked as a Vice President of Mergers and Acquisitions for a New York City-based firm and, therefore, had a thorough understanding of how buyers and sellers valued properties. She explained there were three basic methods to determine valuations, those being 1) to consider the price earnings ratios of publicly traded companies similar to the one in question; 2) to review comparable sales figures; and 3) to perform a net present value of projected cash flow. Ms. Sonnabend said that when she questioned Mr. McCarthy about the specifics relating to the sales of the other nursing homes, he had been unable to provide any information, other than the sale prices provided. She pointed out that he could not comment on the physical plans of the homes, whether they included additional property or if any others included a guaranteed Medicaid reimbursement situation. She stated that this factor called into question Mr. McCarthy's credibility in being someone who was able to guarantee the amount of Specialty Care's bid was a reasonable value for Westmount.

Ms. Sonnabend commented that the biggest factor present was the fact that the Siemens co-generation facility was costing the County money, not only on the capital expenditures, but on the operating costs, as well, and any buyer considering the purchase of Westmount Health Facility would have recognized this issue. She advised that in 2007, before all of this information was available, Doug Auer and Lincoln Cathers, both of whom were engineers, and herself, as a financial analyst, had approached the Board of Supervisors to indicate that the Siemens project was costing the County money and to advise they should end the contract. Ms. Sonnabend stated that when she and Messrs. Auer and Cathers had approached the Supervisors with their concerns at a public meeting, none of their questions had been answered, but the Supervisors had agreed to bring in qualified experts to answer them. She apprised that on July 18, 2007 a meeting of the Budget Committee had been held which "so-called" experts were to attend and answer the questions posed; however, she noted, if one were to review the minutes from that meeting, they would find they consisted mainly of herself asking questions and Mr. Dusek, who had been the County Attorney at the time, not really answering them, but just obfuscating the truth. Ms. Sonnabend said that she had approached *The Post Star* following this meeting to alert them to the

situation, but because she had been unable to generate any interest, she had given up on the matter. She advised Mr. Auer had continued to pursue this matter, and eventually, the Sheriff's Office had started an investigation which had been ongoing for several years and she noted that litigation was pending. Ms. Sonnabend said Mr. Whitehead had contacted her after reading meeting minutes she had been mentioned in to question her on various aspects of the project. She stated that Mr. Whitehead had done a phenomenal job of researching the project, speaking with representatives of other nursing homes and facilities that had recognized the problems with co-generation projects and learning how they had been resolved and she said she was astounded by the quality of Mr. Whitehead's research.

Ms. Sonnabend said she realized that many members of the Board felt this was a "smoke and mirrors" situation with many numbers presented that made them unsure whose information they should believe. She commented that anyone taking this situation seriously should meet with Mr. Whitehead, who would review and explain the information provided and prove that he had a clear understanding of the project. Ms. Sonnabend pointed out that Mr. Whitehead was a Professional Engineer, having passed a very difficult exam to gain this title, and she noted this professional designation required that he take personal and financial liability for any plans he placed his stamp on.

Ms. Sonnabend continued that she would hate to see the County continue to make bad decisions because she did not want taxpayer dollars to be wasted, but said she would prefer that they continued to provide those services that were needed. She advised that if they were able to reduce costs at Westmount by dealing with the co-generation issue and allowing Mr. Cote to continue his good efforts in identifying services they could bill for, the losses might not be as great. Ms. Sonnabend said that Speciality Care did not have the best reputation in the area and she stated that while she was not sure any of the administrators at Glens Falls Hospital were willing to express this publicly, they were very concerned with the considerable increase in re-admission rates that had occurred when Specialty Care assumed operation of Washington County's nursing home facility. She noted that when a nursing home resident returned to the hospital after a short period of time, the hospital was not reimbursed for that care because the Federal reimbursing parties indicated that appropriate care was not provided in the first instance. Ms. Sonnabend confirmed this was not an issue at the Westmount Health Facility now.

Ms. Sonnabend commented on the history of County nursing home sales, questioning how private companies or not-for-profit agencies could be expected to make profits in this arena when the Westmount Facility was currently losing money. She said viable options included reducing salaries and pensions, but noted there were not many other options available while still providing quality care. Ms. Sonnabend stated that for County nursing homes, the percentage of Medicaid patients was higher because this was generally the only place these people could find. She continued that private operators tended to prefer private-pay patients and typically selected private-care patients over Medicaid patients. Ms. Sonnabend stated that although Specialty Care would be expected to maintain a certain percentage of Medicaid patients to continue Medicaid reimbursements, it was likely that after the five-year contract term they would either try to re-negotiate with the County or shut the Facility down. She opined that Westmount Health Facility was located in a prime location and had the potential to present a considerable value if the property was sold for use in another manner. Ms. Sonnabend stated there were a number of aspects to this sale that needed to be looked at much more carefully and she recommended that the Board of Supervisors pay more attention to what credible members of the public were trying to tell them, providing opportunities for these people to explain themselves properly and answer questions. She commented that she liked the idea of holding a public meeting in the evening to allow more public input, but said it might be more productive to hold a meeting between the Supervisors and those that had already performed research and had real information to provide. This way, she continued, they could put all of this information together without incurring any unnecessary confusion or complications. In closing, Ms. Sonnabend thanked the Board for the opportunity to

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address them and comment on the Westmount/co-generation matter.

Chairman Geraghty introduced Patricia Nenninger, the County's newly appointed Personnel Officer. A round of applause was given.

With reference to Mr. Auffredou's prior advisement, Chairman Geraghty announced that an executive session was necessary to discuss pending litigation.

Motion was made by Mrs. Frasier, seconded by Mr. Dickinson and carried unanimously to enter into an executive session pursuant to Section 105(d) of the Public Officer's Law.

An executive session was held from 12:39 p.m. until 12:46 p.m.

Upon reconvening, Chairman Geraghty announced no action had been taken during the executive session.

Motion was made by Mr. Thomas, seconded by Mr. Dickinson and carried unanimously to waive the Rules of the Board requiring that a resolution be presented in writing and approve a settlement in the amount of \$29,000 for the matter of Martha S. Phillion vs. the County of Warren and the Warren County Sheriff's Department, with the County's \$25,000 deductible to be paid from the Contingent Fund. Mrs. Sady advised this would be Resolution No. 220.

There being no further business to come before the Board of Supervisors, on motion made by Mr. Sokol and seconded by Mrs. Frasier, Chairman Geraghty adjourned the meeting at 12:47 p.m.