

# Warren County Board of Supervisors

**BOARD MEETING  
FRIDAY, JUNE 19, 2020**



***Note: As per Governor Cuomo's Executive Order 202.1: "Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such actions authorized by the law without permitting in public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed".***

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. Frank E. Thomas presiding.

Salute to the flag was led by Supervisor Shepler.

Commencing the Agenda review, Chairman Thomas offered privilege of the floor to Assemblyman Stec, who apprised today was the first year that New York State was recognizing Juneteenth as a State Holiday and he suspected this day would become a County Holiday next year. In regard to *COVID-19*, Assemblyman Stec stated the figures were improving and the number of individuals with issues with New York State Unemployment had significantly decreased. He said they were continuing to evolve with the reopening and phased process and what the requirements were for each phase and he commended Ryan Moore, *County Administrator*, who was representing the County on the Control Group calls with the State and had done a phenomenal job advocating for the region and more specifically the County's issues; he added he had received positive feedback for how things were moving forward for the County on those calls. He informed yesterday he participated in an event with the Adirondack Regional Chamber of Commerce in the parking lot of the Aviation Mall to encourage the Governor to continue to reopen the economy as the figures relating to *COVID-19* improved and allow the Aviation Mall to open the stores without outside entrances in a safe manner since the ones with outside entrances were allowed to reopen. He stated this was a bi-partisan event with both parties agreeing that guidance should be provided to permit these small stores located inside the malls to reopen similar to how the anchor big box stores had been allowed to reopen.

Assemblyman Stec advised the downside had been some criminal justice issues that had sprouted up around the Country stemming from the killing of George Floyd and the reactions and protests that were a direct result from that. He said the State Assembly was back in session a few weeks ago with a number of matters relating to criminal justice reform, some of which he was supportive of and others that he did not. He indicated he believed they could support law enforcement while also supporting the issues of the communities, as they were not mutually exclusive. He informed they continued to work on those issues, apprising he did not believe they would be going back into session due to the upcoming primaries and the Independence Day Holiday, with all of their sessions being held remotely which appeared to have worked well, but as the urgency of the virus dwindled the ability to justify remote sessions would become more difficult. He stated he was unsure whether another legislative session would be held this summer, but if they did it would likely stem from financial concerns regarding the State funding levels which were uncertain and could require further action depending on whether the Federal Government took action in the form of financial assistance to the State. He mentioned he believed they should be encouraged that the statistics pertaining to *COVID-19* were

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dwindling throughout the State and more specifically in Warren County and now was not a good time to stop taking the necessary precautions such as social distancing and wearing face masks. He advised he was well aware everyone was working hard for the better of the County and the Towns they represented and as a resident of the County he had noticed the County and Town crews were out working to do what needed to be done and he wanted to ensure this did not go unnoticed and he appreciated their patients as they all tried to move through this trying time together.

Supervisor Magowan apprised he and Supervisors Beaty and Seeber packaged up and distributed face masks in quantities of thirty and fifty to local businesses in the community, such as restaurants because he believed by wearing them individuals were keeping their germs to themselves. He said thus far he had been well received by all of the business owners he had given face masks. He asked if there was a reason why the State Assembly could not hold remote meetings via Zoom, much like the County and Assemblyman Stec responded their sessions had been broadcast and were available for the public to watch. He stated he believed it was a perception for them since everything else was reopening, as it was more difficult for the advocacy groups and media to do their jobs if the Legislators were not physically present in the City of Albany. He said his issue with the Zoom meetings was the public was unable to ask the Legislators questions as a group or on an individual basis and without that interaction they would be in session to adopt legislation largely “in a vacuum”. He added they were using Zoom to broadcast their meetings. Supervisor Magowan voiced that it was necessary for the State Legislators to meet and develop a plan to assist with moving the reopening process along as quickly as possible.

Supervisor Simpson thanked Assemblyman Stec and Senator Little on behalf of the Town of Horicon for working to get the legislation to include Brant Lake as an inland waterway which opened up the Town to many opportunities regarding waterfront revitalization adopted. Assemblyman Stec advised he had neglected to mention during the legislative session that just ended in addition to the criminal justice reform bills he had mentioned, a number of local bills that had not been done in time before the session ended during the time they were working on the State Budget were adopted, including the one for Warren County involving inland waterways and Brant Lake.

Supervisor Braymer inquired whether there had been any discussion concerning legislation to amend the Open Meetings Law to permit meetings for local government to be held via Zoom for a longer term than what was included in the Governor’s Executive Orders and Assemblyman Stec replied he was not aware of this being a topic for discussion. He said in a smaller scene there could be a bill out there with a sponsor; however, he noted, as far as getting any traction where it was getting closer to be taken up this had not occurred.

Supervisor Merlino thanked Assemblyman Sec for everything he was doing for the County while keeping everyone informed and Mr. Moore who was working tirelessly to keep all of the Supervisors up-to-date on what was occurring. He asked Assemblyman Stec a question he had received from the business community regarding if anything was being done with interruption insurance for businesses at the State level because it could provide a significant amount of assistance to small businesses. Assemblyman Stec responded this matter was a difficult one and had not been discussed or moved through Committees last week. He added there was the possibility that they could be called back into session; however, he noted, he believed if they were called back into session it would be related to *COVID-19* and financial issues relating to the same and the issue regarding insurance could be one of the issues they discussed. Supervisor Merlino apprised the business community was well aware of the financial repercussions from the proposed legislation, but they would be pleased to be provided with half of their loss to assist them with moving forward.

Supervisor Seeber voiced her appreciation to Assemblyman Stec for taking the time to meet with them

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today, adding she was hopeful to be able to receive updates each month at the Board Meeting from him, Senator Little and Congresswoman Stefanik, adding she was aware that they were all committed to providing the County with State and Federal aid. She mentioned that she and the other three At-Large Supervisors for the Town of Queensbury would be happy to assist Assemblyman Stec in advocating for Warren County. She pointed out the internet connection in the Town of Queensbury had been spotty as of late and she asked Assemblyman Stec if this was something he could work on getting remedied. Assemblyman Stec replied the issue stemmed from the increased usage due to more individuals working from and being home. He said the infrastructure in the Town of Queensbury was better than what was located in the Adirondacks, but it still could be improved.

Supervisor Beaty advised the State Budget was short \$6.1 billion before the pandemic occurred, but this figure had since increased to around \$20 billion. He indicated New York State was already the highest taxed State in the Country and he inquired whether Assemblyman Stec thought they would be increasing taxes even more on an already strained population. Assemblyman Stec replied there were two sides of the aisle in the State Legislature, one of which was from the New York City region that tended to be supportive of raising taxes on businesses and the wealthy population, but this had not moved forward as of yet. He said he believed the State Senate was more moderate in how they viewed this because of their composition; he added he believed the Governor had been very cautious about wanting to raise taxes because of the pressure he was getting from a number of his colleagues in the State Assembly. He remarked his conference had always been cool to raising taxes more specifically during these unprecedented financial times and out of the box thinking was required, as he did not believe a \$20 million shortfall could be made whole by raising taxes, with a number of decisions being set aside regarding what to do with school aid, local aid, etc. as a result of the wait and see approach as to whether the Federal Government was going to take steps to bail New York State out with Federal funding. He said he believed this was the hope so the pressure would be relieved to raise taxes.

Chairman Thomas thanked Assemblyman Stec for taking the time to attend the meeting today and providing the Board with an update, as well as all of his advocacy efforts on behalf of the County. Assemblyman Stec encouraged anyone with issues that he could assist them with to feel free to contact him.

Returning to the Roll call, the following members were present:

Supervisors Conover, Leggett, Diamond, McDevitt, Braymer, Bruno, Driscoll, Frasier, Simpson, Hogan, Dickinson, Merlino, Strough, Wild, Magowan, Seeber, Beaty, Shepler, Geraghty and Thomas- 20; absent- 0

Supervisors Diamond, McDevitt, Driscoll, Frasier, Simpson, Merlino, Shepler, Geraghty and Thomas were present at the meeting, while Supervisors Conover, Leggett, Braymer, Bruno, Hogan, Dickinson, Strough, Wild, Magowan, Seeber and Beaty were present via teleconference.

Continuing with the Agenda review, Chairman Thomas called for a motion to approve the minutes of the May 15<sup>th</sup> Board Meeting, subject to correction by the Clerk of the Board. The motion was made by Supervisor Simpson, seconded by Supervisor Magowan and carried unanimously.

Chairman Thomas advised he had a note in front of him that indicated Congresswoman Stefanik would like to address the Board via teleconference and he offered privilege of the floor to her. Michael Ostrander, *District Director for the 116<sup>th</sup> Congress*, informed he was present in the absence of Congresswoman Stefanik and would like to ensure everyone was aware that Congresswoman Stefanik sent a delegation letter to Governor Cuomo on Monday regarding releasing the FMAP (*Federal Medical Assistance Percentage*) funding to Counties and on Tuesday Governor Cuomo announced that he would

release this funding.

Supervisor Seeber remarked how it had been helpful to have Assemblyman Stec, Senator Little and Congresswomen Stefanik attend the May 15<sup>th</sup> Board Meeting and she asked whether it would be possible to send each of them a formal invitation to attend the monthly Board Meetings until the *COVID-19* crisis was over because the updates from them had been beneficial. Chairman Thomas responded that these representatives were receiving invitations to attend the meetings. Supervisor Seeber apprised she was unaware this was occurring and she asked that going forward Chairman Thomas include the Board Members on these invitations to keep them informed.

Supervisor Beaty stated a concern that was expressed by he and Supervisor Seeber, as well as a number of other representatives from across the State during their trip to Washington D.C. involved how often the State kept a portion of the funding for local governments for themselves when it was allocated to the State to distribute and he inquired whether it was a priority for the Congresswomen to try and change this so the funding could be directly allocated to the local governments to assist during the pandemic. Mr. Ostrander replied Congresswomen Stefanik was very supportive of funding being distributed directly to the Counties and local municipalities and she in fact had publicly stated this. He said he was aware that it was still a work in progress for the next stimulus bill to be included in terms of federal funding to be sent to the local municipalities; however, he noted, Congresswomen Stefanik was very supportive of it bypassing the State and going directly to the local municipalities and the officials in charge. Supervisor Beaty remarked he was pleased Congresswomen Stefanik was ahead of this.

Chairman Thomas welcomed Mr. Ostrander to the meeting and thanked him for participating and providing an update to the Board on behalf of Congresswomen Stefanik. Mr. Ostrander thanked the Supervisors for partnering with Congresswomen Stefanik's office, adding they were looking forward to continuing to work with the County to not only get through the pandemic, but also return to normalcy rather soon.

Returning to the Agenda review with the report by the Chairman of the Board, Chairman Thomas advised as everyone was already aware that the County was currently in Phase 3 of the reopening process; he added it had been a long slow moving progression to get to this point where the metrics were sound and there were no positive cases a few days ago, but now there was one. He stated the County was on track and was moving toward Phase 4 and he would be remiss to plead with not only the Board Members, but also the public to continue to follow the protocols including wearing masks, frequent hand washing and keeping the minimum social distance because the virus would not be eradicated anytime soon. He acknowledged the public for assisting the County with getting to this point, as well as to extend a special thank you to the Public Health Department, including Ginnelle Jones, *Director, Public Health/Patient Services*, and Patricia Belden, *Assistant Director, Public Health*, and the nursing staff, as it had been a long three months with a significant amount of work required on their part. He continued, apprising he would also like to thank the Sheriff's Office for handling the daily checks on the individuals in quarantine, the County Attorney's Office for drawing up the paperwork regarding the quarantines and the Office of Emergency Services for the assistance they have and continued to provide. He recognized Mr. Moore for all of the hard work he had done while keeping everyone informed and for all of his efforts. He stated he did not want to leave anyone out and would also like to acknowledge the County staff who were working; however, he noted, he wanted to ensure the aforementioned individuals got the recognition they deserved since they had been working on the forefront since the beginning of this pandemic and continued to do so. Chairman Thomas apprised he had participated in the discussions regarding the merging of certain departments that were discussed by the Shared Services Committee and he thanked Supervisor Beaty for bringing this forward to start

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this discussion. He informed he had been present on the daily Capital Region Patrolling conference calls which assisted with moving matters to a top priority faster than it would have without these calls. He advised he had participated in the last of the evening conference calls with NYSAC (*New York State Association of Counties*) which had since ended, but during the last one they had stressed the importance of getting the State to release the FMAP funding that Congresswoman Stefanik had written a letter to Governor Cuomo about and the Governor had recently decided to release the funds. He mentioned NYSAC was also calling for a list of infrastructure projects needs from each County and he would like to thank Sara Frankenfeld, *GIS Administrator*, for her efforts in compiling that list for the County, as well as Supervisor Conover for spearheading the effort to gather the data required to assemble the information. He said the lists from every County would be gathered together and presented to the States Congressional representatives for a future infrastructure bill; he added the total cost of the projects for Warren County totaled \$136 million. He stated he had attended the weekly Economic Recovery Task Force meetings and he thanked Supervisor Wild for leading this group, as well as the participants who provided their expertise and insight to developing a plan to assist with the economic recovery process for the County. He apprised on May 28<sup>th</sup> he had attended the Intercounty Legislative Committee of the Adirondacks meeting, which was the first meeting they had ever held via Zoom and on June 1<sup>st</sup> he attended a meeting regarding short-term rentals and the collection of occupancy tax from them. He said on June 8<sup>th</sup> he had attended the Adirondack Park Local Government Review Board Meeting via Zoom and on June 10<sup>th</sup> he met with the County Clerk to discuss reopening the Department of Motor Vehicles via appointment only on June 15<sup>th</sup>. Chairman Thomas advised he had attended a Department Head meeting during which they discussed the County's reopening plans and most of the departments had submitted plans and Mr. Moore had reviewed and he was in the process of reviewing them; however, he noted, according to his Executive Order staffing levels remained at 50% until at least June 29<sup>th</sup>. He informed he had renewed the State of Emergency on June 16<sup>th</sup>, but he was seeking to undo this as soon as he could. He apprised he had written a letter on behalf of the Aviation Mall to Governor Cuomo requesting that they be permitted to reopen their interior stores. He mentioned the Office of Emergency Services had received 668 gallons of hand sanitizer which needed to be distributed and he encouraged anyone aware of individuals in need of this product to have them contact their Office. He apprised on May 20<sup>th</sup> he attended a meeting of the working group for health insurance.

Chairman Thomas then called for the reports by Committee Chairmen on the past months meetings or activities.

Supervisor Shepler indicated she had nothing to report on.

Supervisor Geraghty apprised he was in the process of reviewing the physical austerity plan compiled by the County Administrator and he attended via Zoom the Shared Services Committee meeting regarding the possible merger of some of the County Departments. He said he was in the process of distributing the schedule for the 2021 budgeting process, adding he would be busy over the next few months meeting with the Department Heads to discuss the process as they returned to working in the office.

Supervisor Conover reported on the May 19<sup>th</sup> meeting of the Public Works Committee where they approved proposed Resolution Nos. 211-214. He mentioned for those who may not be aware Lake George and the Town of Bolton had been featured on a television show that aired on the Food Network on Thursday evenings at 10:00 p.m. that involved three restaurants in the Town owned by the Foy family, with the final episode airing next week. He stated he believed the program helped showcase Lake George and all of the assets in the region and he encouraged everyone to watch the program.

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Supervisor Leggett advised the Public Safety Committee had met on May 18<sup>th</sup>, approving proposed Resolution No. 210 which he provided a brief summary of. He stated the Warren County Soil & Water Conservation District had met to discuss the reopening plan they had in place and they had operations underway. He informed he had attended a number of meetings of the WWIDA (*Warren Washington Industrial Development Agency*), who was working hard on the old dewatering site in the Town of Fort Edward to get it subdivided and road agreements in place in order to make the property available to interested parties. He apprised he had attended the NYSAC webinar yesterday regarding finances which all of the municipalities would be dealing with shortly, as well as the Intercounty Legislative Committee of the Adirondacks. He advised on a side note the Town of Chester hosted an Economic Reopening Information meeting two weeks ago to provide more information to their community on what was required of reopening and he thanked Congresswomen Stefanik, Senator Little and Assemblyman Stec for attending, as well as the panel of experts consisting of the County Administrator, Michael Bittel, *President/CEO, Adirondack Regional Chamber of Commerce*, and Ed Bartholomew, *President, Warren County Economic Development Corporation*, who had all provided vital information to the local business owners.

Supervisor Diamond indicated he had nothing to report on.

Supervisor McDevitt advised that he and Mr. Bartholomew had met with representatives of a new motorcycle helmet manufacturer whose headquarters was in the Town of Queensbury which he felt was very productive. He said they were proposing the creation of about twenty jobs over the next three years which was one of the main purposes of the LDC (*Local Development Corporation*).

Supervisor Braymer stated the Environmental Concerns & Real Property Tax Services Committee had met on May 19<sup>th</sup>, approving proposed Resolution No. 219 which she provided a brief overview of. She said the next Committee meeting was scheduled for July 13<sup>th</sup>, the purpose of which was the “Last Chance Meeting”; she added as of right now no one was signed up to participate, but it was possible this would change between now and the meeting date. Supervisor Braymer acknowledged the Sheriff’s Office and in particular Sheriff LaFarr and all of the Sheriff’s Officer who attended the Civil Rights March in the City of Glens Falls on June 5<sup>th</sup> to ensure all attendees were safe. She said the event was managed well which she equated to law enforcement being involved and that the organizers were very prepared.

Supervisor Bruno indicated he had attended all of the Committee meetings he was assigned to via Zoom, with the exception of the June 15<sup>th</sup> meeting of the WWIDA, which he missed due to having the incorrect link to connect to the meeting.

Supervisor Driscoll apprised the Human Services Committee had met on May 18<sup>th</sup> and approved proposed Resolution No. 209 which he provided a brief overview of; he added he would be requesting a roll call vote on this particular resolution so he could abstain from voting on it, but he would encourage his colleagues vote in favor of it. He stated the next Human Services Committee meeting was scheduled for this upcoming Monday and he encouraged all to review the agendas that had been distributed pertaining to meeting.

Supervisor Frasier advised the Finance Committee had met on May 27<sup>th</sup>, approving proposed Resolution Nos. 196, 197, and 218-219 which she provided brief overviews of. She advised she had also attended the Zoom meetings of the Intercounty Legislative Committee of the Adirondacks, as well as the health insurance working group meeting. She offered privilege of the floor to Mike Swan, *County Treasurer*, to provide an update on the County finances.

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Mr. Swan stated he was pleased to report Robert Lynch, *Deputy County Treasurer*, reviewed the County Budget to look for savings and determined that money set aside for long-term vacation accruals had a surplus in the account. He explained the funds in this account were used to pay out vacation accruals when employees retired or resigned from the County and the Government Accounting Standards required the County to fund the current portion of that, but not the long-term share and the County had been funding the long-term share for quite some time. He said they would be allocating \$2,435,000 from this account into the General Fund to use to offset some of the lost revenue, \$158,000 to the County Road Fund, \$41,000 for the Road Machinery Fun, \$18,000 for the Employment & Training Fund, and the Self-Insurance would receive \$16,000. He advised not only was this freeing up \$2.8 million for the Count to use because it was being allocated to surplus funds and not reserve funds, it would also permit the County Budget Officer to have \$2.6 million less to try and budget with next year, as this was a long-term savings every year with no loss of revenue on the other side of it.

Supervisor Wild inquired what the timeframe was for the long-term savings and Mr. Swan responded this had been moved into the long-term debt situation which meant it would be paid for out of that account. Mr. Swan explained on average the County was paying \$150,000 on an annual basis for these vacation payouts which was why it did not make sense to have an account with a \$2.6 million balance; he added once they received permission from the State Comptroller's Office to move this money out of this account they did so. Supervisor Leggett asked how they determined how to divvy up this money between the different accounts, such as the Road Fund, etc. and Mr. Swan replied he did not have an exact answer, but they returned all of the long-term portion of the funding which equated to \$2.6 million and they left about \$150,000 divided up into those funds to pay out vacation accruals for employees who retired right now; he added he did not have the percentages because it was a dollar amount.

Supervisor Simpson informed the Personnel & Administration Committee had met on May 27<sup>th</sup>; he advised he would like to thank the working group that was established to address the employee concerns during the reopening process and ensure a safe transitioning process was in place to bring employees back to work, with the understanding that this was a very fluid situation. He stated the working group members consisted of Supervisor Seeber, Liza Ochsendorf, *Director, Employment & Training Administration*, Tammie DeLorenzo, *Assistant to the County Administrator*, Amy Clute, *Self-Insurance Administrator*, Supervisor Magowan, Patricia Nenninger, *Personnel Officer*, Frank Morehouse, *Superintendent of Buildings*, Kevin Hajos, *Superintendent of Public Works*, Don Lehman, *Public Relations Director*, and Supervisor Geraghty. He stated they had worked collaboratively to put together a survey which he would like to recognize the employees for filling out and submitting their responses in a timely manner. He remarked he hoped they were able to achieve what they set out to ensure the transition to bring employees back to work went as smooth as possible. Supervisor Simpson advised proposed Resolution Nos. 215-217 were approved at the May 27<sup>th</sup> Personnel & Administration Committee meeting. He called attention to proposed Resolution No. 217, *Ratifying the Actions of the County Attorney in Withdrawing Litigation Against David Decker*, apprising he had been unable to attend the meeting where this was discussed, but he hoped all of the questions that were presented to him were answered and everyone was comfortable moving forward.

Chairman Thomas congratulated Supervisor Hogan on her recent appointment to the Adirondack Park Agency.

Supervisor Hogan thanked Chairman Thomas for the recognition; she apprised Cornell Cooperative Extension would be returning to work in the office next week at 50% capacity, but prior to that they had all been working tirelessly from home. She mentioned they were offering programs via Zoom, including Dining with Diabetes, Food Sustainability Education, etc., all of which, as well as other programs were

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available on their website for review at your leisure which she encouraged everyone to do. Supervisor Hogan announced their annual fundraising Golf Tournament would be held on August 22<sup>nd</sup> at Cronin's Golf Resort in the Town of Warrensburg, with a few changes to follow all of the guidelines, but it should still be a fun event and she encouraged everyone to attend.

Supervisor Dickinson stated the he was working on scheduling a meeting of the Occupancy Tax Coordination Committee for the purpose of discussing the Occupancy Tax Spending Plan, as well as Occupancy Tax funding. He said a number of event organizers had been participating in the cutbacks and he would like to discuss a few of them the County had contracts with to ensure their funding was decreased appropriately.

Supervisor Merlino thanked the Tourism Committee members for allowing them to call him last Wednesday because he needed an answer on something by Thursday. He offered privilege of the floor to Joanne Conley, *Director of Tourism*, to provide a synopsis of the activities in the Department. Ms. Collins proceeded to review a presentation which she distributed to the Board Members via email yesterday entitled "Modified 2020 Marketing Plan July 2020", in detail; *a copy of which is on file with the items distributed at the June 19<sup>th</sup> Board Meeting.*

Supervisor Driscoll thanked Ms. Conley and Supervisor Merlino for providing all of the Board Members the opportunity to voice their opinions on the plan, as well as taking the time to listen to his concerns and answer his questions. He advised originally he had been opposed to all three of the proposals due to his concerns involving the late fall and winter seasons not being addressed; however, he noted, following his conversations with Ms. Conley and Supervisor Merlino he began to comprehend their plan in regard to all seasons being equally addressed.

Supervisor Hogan advised she would like to echo what Supervisor Driscoll had just stated, as for obvious reasons she had relayed her concerns regarding no funding being budgeted for the winter season, but Ms. Conley and Supervisor Merlino took the time to explain their process. She stated she was fully supportive of the plan and was appreciative of the thoughtfulness and care they had taken in the marketing materials that would be released.

Supervisor Wild recognized Ms. Conley for her efforts; he apprised Ms. Conley neglected to mention she had been authorized to spend \$10,000 on marketing efforts in Downstate New York following which she had displayed the amazing results of these labors. He stated he felt they should recognize Ms. Conley for the great job on this effort and asked her to keep up the good work. Ms. Conley advised a week ago the Tourism Department had decided to commence their marketing efforts for the region using a minimal amount of money through social media. She said by spending \$10,000 on this marketing effort they were able to access ten million individuals, with the blog story being shared around seven hundred times, seven hundred comments were made and it had received several thousand likes, all for a cost for engagement of \$.50.

Supervisor Strough indicated he had nothing to report on.

Supervisor Wild apprised Economic Growth & Development and Higher Education had met and approved proposed Resolution Nos. 205-207 and he provided a brief overview of each. He stated the Economic Recovery Task Force had met on a weekly basis since around the beginning of the *COVID-19* crisis and he recognized the following individuals for the contributions they made to this group: Mr. Bartholomew, Mark Behan, *Behan Communications*, Mr. Bittel, Frank Dittrich, *Warren County Lodging Association*, Dr. Kristine Duffy, *President, SUNY Adirondack*, Kathy Munsel, *representing Fort William Henry*, Laura Kohls, *Courtyard by Marriott*, Gina Mintzer, *Executive Director, Lake George Regional*

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*Chamber of Commerce & CVB*, Ms. Ochsendorf, Vincent Crocitto III, *Holiday Inn Resort*, Chairman Thomas, Mr. Moore, Ms. Frankenfeld, Ms. Jones and Ms. Conley, as well as many more which he was neglecting to mention. He said he wanted to ensure everyone was aware that this Task Force was a public and private partnership; he added he was thrilled these individuals were donating their time to assist with getting the area reopened for business by providing Mr. Moore with an abundant amount of information to bring to the Control Room in an attempt to get the regions businesses reopened. Supervisor Wild informed he had also attended the meeting of the WWIDA, as well as recording a speech for the students graduating from SUNY Adirondack. He stated he hoped to be able to honor a few of the students who graduated from SUNY Adirondack when the County was reopened to the public. He concluded by advising there would be additional discussions forthcoming regarding SUNY Adirondacks 2020-21 Budget.

Supervisor Magowan advised Support Services had met on June 15<sup>th</sup>, approving proposed Resolution No. 215 which he provided an overview of. He mentioned next week he would be unable to attend the Committee meetings scheduled for next Tuesday because he would out-of-town. He stated as Chairman Thomas eluded to earlier in the meeting, the Office of Emergency Services had received a significant supply of gallon jugs of hand sanitizer to distribute which he worked with an employee from Buildings and Grounds to construct cradles for them, as well as modifying the pumps to prevent too much product from being disbursed at one time.

Supervisor Seeber voiced her appreciation of Supervisor Magowan for providing assistance to the County on projects that had come forward during the pandemic. She apprised the Criminal Justice Committee had met on May 18<sup>th</sup>, approving proposed Resolution Nos. 203-204, both of which were brought forward by requests from the Public Defenders Office. She stated she would like to highlight on May 29<sup>th</sup> the Board Members received an email from Mr. Lehman regarding the Rainbow Project that was managed by the Probation Department, informing she wanted to ensure everyone was aware of how hard Amy Secor, *Juvenile Probation Supervisor*, was working on this with the Department. She said the rainbows were delivered to different places in the region which was noted in the local media. She apprised Ms. Secor had noted that this was a positive outcome as a direct result of ongoing work that they did on a daily basis to ensure the implementation of restorative justice and those practices within the community. She pointed out the juveniles who participated all did so on a voluntary basis; she added this allowed the participants to have more of a sense of belonging and responsibility and sense of community and she applauded their efforts. She said she hoped everyone would take the opportunity to attend the Criminal Justice Committee meeting on Monday where the Probation Department would discuss this Project in more detail and she thanked Supervisor Leggett for agreeing to Chair the Committee meeting for her. Supervisor Seeber thanked Chairman Thomas and Mr. Moore for their efforts which allowed her to meet with the Sheriff and Supervisors Driscoll and Leggett on June 2<sup>nd</sup> to discuss preparing for the peaceful protest which took place in the City of Glens Falls, as well as issuing a powerful statement that was signed off of by other organizations and agencies that partnered with the County which she believed was appropriate. In addition, she said she was a member of two Standing Committees for NACo (*National Association of Counties*), the first of which was Resilient Counties that had met on May 22<sup>nd</sup> and the Criminal Justice and Public Safety Committee on June 5<sup>th</sup>, both of which were very informative. She acknowledged Chairman Thomas for supporting her in reapplying to an appointment on those Committees for next year. Last, she advised at the appropriate time she would be requesting a roll call vote on proposed Resolution No. 217, *Ratifying the Actions of the County Attorney in Withdrawing Litigation Against David Decker*, which she would be abstaining from the vote, but not recusing herself from dialogue after reading all of the materials and discussing with the County Attorney's Office.

Supervisor Beaty informed the County Facilities Committee had met on May 19<sup>th</sup>, approving proposed

Resolution Nos. 198-202 which were self explanatory. He stated he had attended numerous meetings with Department Heads as part of the shared services initiative to explore opportunities that may exist to merge departments to save money due to the need now more than ever to reduce the County expenses. He said he believed these meetings were very beneficial with every Department Head providing valid cases on behalf of their departments, as well as potential savings opportunities which he was appreciative of; he added these meetings would be ongoing. He thanked Supervisors Seeber and Magowan for joining him in distributing thousands of face masks to the citizens of the Town of Queensbury by delivering them to small stores, restaurant, senior citizens housing, etc. He said although they could not reach every resident it was a successful program which took a substantial amount of time and effort by himself and Supervisors Seeber and Magowan. Supervisor Beaty inquired when the Board would be appointing a member to represent Warren County into the vacant position on the WWIDA, which was vacant due to the County not renewing Travis Whitehead's, *Town of Queensbury Resident*, term in January of this year which he was opposed to. He said he had been under the impression this vacancy would be filled, but nothing had been brought forward which was concerning to him because they were short one representative on the WWIDA and he questioned what the plan was going forward to fill this position. He stated that he had asked Mr. Hajos about six weeks ago to provide hand sanitizing stations at every County-owned facility and with the assistance of Supervisor Magowan and the Building and Grounds staff this project was well underway and he acknowledged Supervisor Magowan for assisting the County on this project, as the more they could make the employees and visitors feel safe the better off the County would be.

In regard to the policy regarding appointments, Supervisor Simpson advised this had originally been entertained by the Personnel & Administration Committee following which it was referred to the Legislative & Rules Committee, but he could not recall if this subject matter was ever discussed by the Committee. He stated if everyone was agreeable he would be comfortable adding this to the agenda of the next Personnel & Administration Committee meeting for discussion. He said he believed they had been discussing whether the appointments would be the Chairman's appointment with the Board voting on that appointment afterwards, but the conversation appeared to have ended there. Chairman Thomas remarked he was agreeable to adding this to the agenda of the next Personnel & Administration Committee meeting.

Continuing to the Report by the County Administrator, Mr. Moore recognized the following people for their years of service to the County which he said he was greatly appreciative of

- \* Samuel Broth for 20 years of service to the DPW;
- \* Julie Butler for 25 years of service to the County;
- \* Scott McLaughlin for 30 years of service to the Information Technology Department;
- \* Greg Bolton for 30 years of service to the DPW; and
- \* Patricia Belden for 30 years of service to the Public Health Department.

Mr. Moore apprised he had been asked by the DSS (*Department of Social Services*) to read an announcement regarding a retirement of a long-term employee. He stated that Cindy Mulcavy was retiring after 33 years of service to the DSS on May 29<sup>th</sup> and she had started her career with them in 1987 as a Caseworker in the Preventive Unit in Children Services which not only a difficult job to do, let alone to start with. He informed in 1992 Ms. Mulcavy was promoted to Sr. Caseworker which she served in for both Foster Care and Preventive Unit, with most of her years working in Preventive. Beginning in 2000, he said she served as Staff Development Coordinator until 2012 when that position was abolished and then she was reinstated as a Sr. Caseworker. He continued, apprising in 2016 Ms. Mulcavy was promoted to Supervisor in the Preventative Unit; he added she was well respected by her staff and everyone was sad to see her leave and he would like to congratulate her on a long career during which she had a significant impact on peoples lives which he thanked her for.

Mr. Moore stated he would like to echo all of the acknowledgments Chairman Thomas had mentioned

in his report that were all worthy of the recognition. He apprised he would also like to thank the Supervisors because they were all critical in enforcing the rules which we may not all agree with, but they were imperative in controlling the infection rate, as well as getting this region into the position that its currently in to have a decent summer in regard to sales and occupancy tax collections even though it would not be near as much as a typical summer would have been. He advised the enforcement of all these public health measures rested on the local governments with the County having the ability to issue building code violations, but this had not been necessary because the business community had been so selfless and cooperative in dealing with all of this which a significant part of was due to the one on one contact they had with both the Town, At-Large Supervisors and Ward Supervisors, as well as their staff. He indicated this had been a cooperative, productive effort across the board and he thanked each of them for playing the part that they did in this effort which was what was making the difference.

Mr. Moore apprised as everyone was already aware of there was one new positive *COVID-19* case and he would like to repeat what he had indicated to the business community yesterday evening which was that with every new positive case, and he was sure there would be more because there was still a pandemic, the County was committed to tracing where it came from, why it occurred and whether it occurred as a result of any of their actions or inactions that this be addressed to ensure they got it under control they did not have to take a step backwards like some places in the United States. He said this particular new case came about from outside of this County who has had some known cases of the Coronavirus and this individual had not been feeling well and had been home sick resulting in them only exposing their immediate family members, all of whom were under quarantine. He mentioned this had not been unexpected and was an easy case to manage and trace; however, he noted, difficulties would arise if someone from out-of-State visited Lake George and caused a number of residents to catch the Coronavirus or there was an outbreak due to an error on the County's part. He restated the roll the Supervisors all played working with the business community leaders was the most important action in this.

In conclusion Mr. Moore stated he would like to read aloud the first part of a news article featured on [www.myrtlebeachonline.com](http://www.myrtlebeachonline.com) with the headline stating "Tourists say they got *COVID-19* in Myrtle Beach. States give advise as South Carolina cases spike". One County Health Department was warning its residents about vacations after three people tested positive for Coronavirus following a recent trip to Myrtle Beach. Several States are offering guidance on ways for their residents to protect themselves during any travel. The Health Department in Preston County, West Virginia announced that eight people tested positive for *COVID-19* after recent trips to Myrtle Beach. Preston County is a rural area near Morgantown and West Virginia University with a total of 2,200 confirmed *COVID-19* cases. One County Health Department was warning its residents about vacations after three people tested positive for Coronavirus following a recent trip to Myrtle Beach. Myrtle Beach, South Carolina health officials urged people to wear a mask and practice social distancing, but have yet to announce plans for any more closures because of the increase in cases. The Myrtle Beach area also been called a Coronavirus hotspot by the South Carolina Department of Health and Environmental Control. No States have yet to issue bans or recommendations not to travel to Myrtle Beach. Mr. Moore apprised the article continued on, but there was no reason to continue reading because he believed they had a thorough understanding that Myrtle Beach was a hotspot as a result of some of the actions they took during their reopening process that were incorrect; he added he hoped for their sake they were able to get this under control because it did not leave a good impression for Myrtle Beach. He read aloud a headline from Fox 8 in West Virginia as follows "Public Health Officials issue warning after spike in positive *COVID-19* cases linked to Myrtle Beach visit". He continued, advising there was one from a CBS affiliate in Pittsburgh, Pennsylvania with the headline "State Health Officials link Myrtle Beach travel for spike in Coronavirus cases". Mr. Moore remarked no one would like to be in the current position of Myrtle Beach because their brand was being tarnished; he added it was up to the County to ensure their brand remained in good standing.

Continuing with the Agenda review with the report by the County Attorney, Mary Elizabeth Kissane, *County Attorney*, apprised she would like to discuss proposed Resolution No. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, advising she had a conversation with Supervisor Hogan, who was requesting a revision to the proposed Resolution. She said following her discussion with Amanda Allen, *Clerk of the Board*, regarding this request they determined they were uncomfortable making any changes to the resolution because the Committee had been so adamant about it being the same; however, she noted, she believed the request was warranted, as it related to changing the name of the tower policy which was in quotation marks to the correct document name which was Policy on Agency Review Proposals for New Telecommunications Towers and other Tall Structures in the Adirondack Park. She stated an amendment was required from the floor. She apprised the next thing she would like to discuss was the email she distributed to the full Board on June 16<sup>th</sup> regarding the Opioid litigation. She said when she distributed that email they had been asked by outside counsel to either adopt a resolution permitting them to pursue something with the local pharmacies or to opt out of doing that. She mentioned Shayna Sacks, *Esq., Outside Counsel for the County*, was participating in the meeting via Zoom to provide a brief update and answer any questions the Board Members may have.

Supervisor McDevitt asked Ms. Sacks if there was a timeframe in terms of a settlement on this case and Ms. Sacks responded what was occurring now was the Warren County case was included in a coordinated batch in Suffolk County before Judge Garguilo and all of the entities that were in New York were within that litigation. She said this was a good position to be in because Judge Garguilo was very supportive of the County's case and his rulings had been supportive, as well. She informed the first trial, which was referred to as a Bell Weather Trial, with the idea that the difference in a class action was they held a few trials and used the results of those trials as a guide moving forward; however, she noted those decisions would not be binding because everyone had their own individual case, but the idea was those cases that went forward first would be a guide for future settlement, etc. She indicated three cases were chosen by the court to be the first ones to move forward and included the Attorney General's case on behalf of the State, and Suffolk and Nassau County on Long Island which were selected due to being the first two cases that were filed. She advised they were supposed to have a trial with all three of those plaintiff's against all of the forty plus entities they were suing beginning in March about two weeks after everything began to shutdown due to the pandemic resulting in the court being forced to move the trial first to April, then to the end of July/early August and then just recently the court decided to hold the trial in September due to the fact that this required a jury trial. She said due to the Coronavirus this could change again, but as of right now they were ready and hoped that the court would move forward with the trial in September, but if the date changed again she would notify them. She advised in terms of settlement, which was slightly different, the standard for the best manner to settle any type of case was through a trial date, as there was nothing that pushed a case more than a trial date which was why they were disappointed the trial date got changed, but they understood it was not possible to hold a jury trial in the current climate. She mentioned at the same time there were ongoing discussions for the global settlement which she would keep everyone updated on.

Supervisor Braymer questioned what a resolution adding local pharmacies had to do with the status of the case if the case was ready to move forward with the trial and Ms. Sacks replied the cases currently moving forward were the cases they hoped would guide settlement in the future and there was nothing that prevented them from adding more defendants as they discovered new information. She said when the case first began it was only against the manufacturers of the medications, then it was expanded to the distributors of the medication and then it was further expanded into the retailers because through discovery they realized that those three conglomerates of groups were all in it together similar to how governments went after organized crime meaning that they were all related to one another and when one acts they found everyone who was related and had knowledge of that.

She informed through discovery they had determined not only were the large chain pharmacies involved, but there were some smaller chains who were involved with the issue, as well. She said there were two particular pharmacies in Warren County that had extremely high numbers of opioid sales which they would like to look into further and were seeking permission from the Board to do so because these were both small businesses. She advised they had access to information that allowed them to calculate exactly how many pills those two particular pharmacies sold and part of the further investigation into them would assist with determining whether there was an outside reason for them to be sued, such as if there was another reason besides actual knowledge that they did something illegal or wrong in violation of the statute. As an example she stated if one of those pharmacies was located adjacent to a cancer clinic or they were located in the basement of a hospital it would justify why they had such high numbers and this would be a company they would not want to pursue with in the lawsuit. She apprised she was looking for direction from the Board as to whether they wanted her to pursue investigating these two pharmacies further or whether they would like her to provide additional information before a decision was rendered. She pointed out some Counties had hundreds of pharmacies that fit into this category, but Warren County only had two which was a small group to look into that disbursed such a high quantity of pills.

Supervisor Braymer interjected she thought there were five smaller pharmacies on the list from Warren County that could be looked into further. She asked Ms. Sacks if she was indicating the County did not need to take any action in regard to adding these pharmacies as a defendant, but rather she was seeking verbal approval to look into them further because the Board was under the impression that they needed to file a suit based on the statute of limitations. Ms. Sacks responded they were concerned that there was a statute of limitations and if the County provided her with verbal approval their firm would make a determination as quickly as possible, put it into a complaint, send it to Ms. Kissane to approve and then file it; she added they were working on a tight deadline and if she got the go ahead she would likely work on the matter this weekend; however, she noted, nothing would occur without the authority of the Board. Supervisor Braymer asked Ms. Sacks to clarify the number of pharmacies they would be looking into and whether she felt this would significantly assist the County's case and Ms. Sacks responded she did not have the numbers in front of her, but her understanding was that it was two. She added even if it was five pharmacies instead of two, that was still a small manageable amount for her to be able to review rather quickly. In terms of changing the lawsuit dramatically, Ms. Sacks stated this was not likely; however, she noted, there were a few strategy reasons, as well because a lot of the defenses of each of the different entities was to place the blame on someone else and by pointing to an entity who was not included in the lawsuit itself created a different strategy for the parties involved. She said she could not promise that it would increase the numbers significantly, but that was something they could balance and if it was something the Board was not comfortable with then they would not move forward. She remarked in her point of view including more defendants was never a bad thing unless there was some outside reason to not include them.

Supervisor Hogan inquired whether online or internet pharmacies were included in their analysis and Ms. Sacks replied they were not being included in the sense of the data that they had access to related to pharmacies in the United States reporting to the DEA (*Drug Enforcement Administration*) and she had no control over what another Country may do or something online because it was not something that was documented in the same exact manner although the idea of those were included in the case and in the history of why there was such an issue. Supervisor Hogan asked if Ms. Sacks could speak to the Board about the other Counties who had taken action against the pharmacies and had experienced countersuits and Ms. Sacks responded inquiring if Ms. Hogan was indicating they were included in a lawsuit and then got sued themselves. Supervisor Hogan advised the County's were sued for instituting the suits against the pharmacies. Ms. Sacks apprised she was unaware of this ever occurring and she asked if this pertained to the large chain pharmacies or the smaller individual ones and Supervisor Hogan replied this related mostly to the large chains. Ms. Sacks advised suing someone who sued you was a frivolous idea; she added she had not heard of this, but if Supervisor Hogan had any additional

information regarding this she would be happy to look into it.

Supervisor Magowan apprised he was confused by the process because the pharmacies were not the ones who wrote the prescriptions and were just doing their job by filling them and while he understood including the pharmacies in the lawsuit, he inquired whether they were going to sue the ones who wrote the prescriptions, as well; Ms. Sacks responded that the large chain pharmacies were already included in the lawsuit. She explained the first group of defendants consisted of the manufacturers and were the ones who produced the drugs and the argument there related to marketing with the allegation that they marketed the product in a misleading manner which in some ways would be referred to as a lie. She said the manufacturer shared this information with customers and consumers like yourselves, as well as physicians. She advised physicians received all of their information from the manufacturers so if the person an individual was relying on for information was not being truthful and then the physician relayed it to their patients it would become difficult to place the blame on that individual. She said she was not indicating that all doctors were perfect because there were many cases where physicians clearly overstepped their bounds. She apprised whether or not a company relays that a drug was addictive, if someone keeps coming into an office and asking for this particular drug, as a physician they should be able to determine something was wrong and make a judgement call. In regard to distributors, she advised they were the company that were provided the medication by a manufacturer to disburse to the pharmacies around the Country. She explained a distributor had a statutory requirement according to State and Federal law that if they noticed numbers that were beyond what was deemed appropriate they were supposed to halt their shipment and notify the DEA. She stated their allegation which was based on internal documents and things they had observed was that they did not report this and actually ignored this. She informed the pharmacy retailers had the same burden because if they saw significant numbers had a duty to turn the business away and companies like CVS, Walgreens, etc. had an internal system, as well as the smaller pharmacies meaning if they noticed the same individuals were coming in everyday with the same prescription claiming the same injury these pharmacies had an obligation to turn away that business. She said this was where the legal argument originated from with the smaller pharmacies not always being the focus of the litigation because the numbers appeared to be pointing more toward the large companies causing the issue due to having more volume as a result of them having more stores; however, she noted, they had determined some of the smaller pharmacies were part of this problem. Supervisor Magowan thanked Ms. Sacks for the information, apprising he believed he had all the information he needed to make an informed decision.

Supervisor Shepler voiced her concern that the pharmacies here were the middleman and the manufacturers and distributors were the ones who were providing these drugs to the pharmacies who were disbursing them from the orders of physicians. She said she believed the physicians needed to be looked into first and foremost before they started pursuing the pharmacies for receiving the orders from the physicians offices. Ms. Sacks disagreed that the pharmacies were the middleman, as she believed the distributor was the middleman if they were put in order because the manufacturer sent the product to the distributor who then disbursed them to the pharmacy and the argument was that they were all involved with each other because they all had knowledge about what was occurring.

Supervisor Wild voiced his concerns regarding the cost the smaller pharmacies would incur to defend themselves. He said with the current downturn in the economy he hoped they were careful in their selection of who they were going after to prevent from closing these businesses. He apprised he was unsure where these specific pharmacies were located, but if they were in the North Country they could be the only pharmacy in that region which he was cautious about and had reservations about including these smaller pharmacies who may be forced out of business as a result of this lawsuit. Ms. Sacks informed that this was part of the investigation that her staff would conduct, apprising she believed the two smaller pharmacies she was referring to in Warren County were associated with Price Chopper which were not small independent pharmacies, but rather consisted of a smaller chain of pharmacies.

She advised she was familiar with the Lake George region and understood that these pharmacies could be located in an area where they were the only pharmacy; she added she could provide the Board Members with details regarding the pharmacies in question to set their mind at ease.

Chairman Thomas inquired whether the Board would like for Ms. Sacks and her staff to look further into the pharmacies in question. Ms. Sacks apprised another option would be for her to provide additional information regarding them before a decision was rendered. Chairman Thomas advised he was told a decision was required by today and Ms. Sacks interjected that what she was seeking was a determination whether the Board was opposed to her investigating the activities of these two smaller pharmacies further. She remarked she was appreciative of the reservations that were expressed, apprising as the individual who was handling the matter she could ensure no action would be taken without receiving the consent of the Board. She indicated some Counties had notified her they were comfortable moving forward while others were opposed; she added if the Board Members were undecided she would be happy to look into it further to provide them with additional information to help them render a decision as long as they were not fully opposed to the notion.

Supervisor Wild inquired whether they could give Ms. Sacks the go ahead to moving forward with adding these two smaller pharmacies to the lawsuit and then remove them at a later time if they changed their minds and Ms. Sacks replied affirmatively. Supervisor Wild remarked this would be his preference then. Ms. Kissane interjected she was concerned this opioid litigation would become a debate similar to how later in the meeting when there would be debate regarding the litigation concerning David Decker. She stated because of this she believed it was not appropriate to move forward with litigation against these pharmacies only to have the litigation be withdrawn in the future which was what had caused the issues with the case against David Decker. Supervisor Hogan asked for clarification as to whether Supervisor Wild was against the proposed litigation. Supervisor Wild advised he was opposed to moving forward with litigation against the smaller pharmacies unless they had a sense that they were doing something wrong so he was proposing to include them now, but withdraw it if the additional information that was provided to them justified their numbers. Ms. Sacks advised she did not think this was necessary because she felt she could provide the Board Members with additional information to ensure they were comfortable with their decision. Supervisor Wild asked whether Ms. Sacks required a determination today and Ms. Sacks responded she was looking for them to decide whether they were opposed to adding the smaller pharmacies to the lawsuit regardless if they received the further information.

Chairman Thomas called for a consensus of the full Board through a show of hands on how many people were in favor of including the smaller local pharmacies in the opioid litigation following which it was determined it was not the consensus of the Board to move forward, with Supervisor McDevitt being the only Board Member in favor of this action.

Resuming the Agenda review, Chairman Thomas called for the reading of communications, which Mrs. Allen read aloud, as follows:

Reports from:

1. Capital District Regional OTB - Audited Financial Statements and Supplemental and Other Information for years ended December 31, 2019 and 2018;
2. Capital District Regional OTB - Financial Report dated November 30, 2019
3. Warren County Commissioner of Jurors - Annual Jury Report for 2019

Minutes from:

1. Warren County Jury Board - April 22, 2020 Annual Meeting.

Letters/emails from:

1. NYS Parks, Recreation & Historic Preservation - announcing that the Hague Baptist Church is to

- be considered at their June 11, 2020 meeting for nomination to the National and State Registers of Historic Places.
2. Town of Queensbury - Resolution No. 187 of 2020, *Resolution Setting Public Hearing on Proposed Local Law to Amend Chapter 179 "Zoning" of Queensbury Town Code to Revise §179-4-090 "Parking & Loading Regulations"*, and Notice of Public Hearing concerning same.
  3. Email from June Maxam/North Country Gazette - regarding improper FOIL responses and charges.
  4. Letter from F.R. Smith & Sons, Inc. - modifications to SPEDES Multi Sector General Permit (MSGP-GP-0-17-004) SPEDES ID# NYR00F527.
  5. Adirondack Park Local Government Review Board Resolution - *"Recommending Actions to Strengthen the Clean Drained and Dry Aquatic Invasive Species (AIS) Spread Prevention Law"*
  6. Adirondack Park Local Government Review Board Resolution - *"Requesting Review and Change of APA Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park"*.
  7. Email from G. Travis Whitehead - written comments and documentation with regard to Resolution No. 217 of 2020.

Continuing to the reading of resolutions, Mrs. Allen announced proposed Resolution Nos. 196-219 were mailed; she apprised Resolution Nos. 220-224 were produced after mailing, pursuant to action taken at the June 9<sup>th</sup> Occupancy Tax Coordination and Tourism Committee meetings and the June 15<sup>th</sup> Support Services and Personnel & Administration Committee meetings and a motion was needed to bring them to the floor. The necessary motion was made by Supervisor Simpson, seconded by Supervisor Braymer and carried unanimously.

Chairman Thomas called for discussion and public comment on the proposed resolutions, as well as requests for roll call votes.

Supervisor Hogan requested a roll call vote on proposed Resolution Nos. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, and 217, *Ratifying the Actions of the County Attorney in Withdrawing Litigation Against David Decker*.

Supervisor McDevitt requested a roll call vote on proposed Resolution No. 212, *Authorizing Revocable Bikeway Right-of-Way Private Use Licensing Agreement with Stewart's Corporation for Land Use for a Parking Lot*.

Supervisor Seeber indicated she had previously expressed a desire for a roll call vote at the appropriate time and she needed to ask for a formal opinion from the County Attorney regarding whether there were any exceptions to the County's Ethics Code which indicated if a Board Member were to recuse or abstain that they could not participate in discussion, as the County's Rules of the Board were more prohibitive than Robert's Rules of Order were. She stated she would once again be requesting that a formal training be held regarding Robert's Rules of Order and the Rules of the Board because she believed they were continually having issues pertaining to confusion regarding these rules. Ms. Kissane replied that Section 3.042 of the County Policies indicated that no Municipal Officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise discussion, including discussing the matter and voting on it when he or she was aware or had reason to be aware that the action could confer a direct or indirect financial or material benefit on himself or herself, relative or any type of organization in which he or she was deemed to have an interest in. Ms. Kissane noted she was not taking any position on whether there was an interest for Supervisor Seeber here and the law indicated that if they abstained from the vote then they also could not participate in the discussion. Supervisor Seeber inquired whether there were exceptions to that Rule and Ms. Kissane responded there was always exceptions to the County Ethics Law, such as voting on the County Budget in general, but this would not be an exception. Supervisor Seeber remarked for today's purposes she

would ere on the abundance of caution and she urged Chairman Thomas to make it a priority to hold a training on Robert's Rules of Order and the Rules of the Board, adding she felt it limited their ability to represent their constituents as it related to some of these votes and there appeared to be a significant amount of confusion pertaining to what these terms meant.

Supervisor Driscoll requested a roll call vote on proposed Resolution No. 209, *Authorizing Continuation of Contractual Relationships for Special Delinquency Prevention Programs*, and also stated as the Chairman of the Human Services Committee he had a responsibility for announcing that resolution and encouraging the Board Members to consider it, but he would be abstaining from the vote.

In regard to proposed Resolution No. 202, *Authorizing Agreement with Jacobs Civil Consultants, Inc. to Provide Consultant Services for All Services Related to the Pavement Management Plan at the Warren County (Floyd Bennett Memorial) Airport*, Supervisor Diamond apprised at the County Facilities Committee meeting where this had been approved there had been discussions regarding the agreement for the consulting services and his understanding at the time was this was an extension of existing consulting services. He stated at that time he had requested a copy of the agreement be forwarded to him prior to the Board Meeting for review, but the only thing that was provided to him was a scope of work which in his opinion was not an agreement between this consultant and the County. He informed this scope of work indicated the work not included in this proposal was sub-surface investigation to determine pavement of the CBR Values and he questioned whether this was work that was required that was not included in this scope of work. Mr. Hajos responded it was not guaranteed this work would have to be completed because they first needed to complete a visual pavement evaluation following which they would determine whether the work was required; he added he was unable to predict whether that work was what was necessary, but if they needed to determine the CBR value then it would be covered under the grant work. Supervisor Diamond pointed out the grant funding was maxed out at \$49,000 which equated to the itemized scope of work and he asked where the additional funding to pay for the work would come from if they exceeded the \$49,000 and Mr. Hajos replied they would request the funding from the FAA (*Federal Aviation Administration*) or the State. Supervisor Diamond asked for clarification that this meant this work was not covered under the current terms of the application the County was submitting and Mr. Hajos replied in the negative. Mr. Hajos apprised CBR value could be handled without doing any underground testing, adding he had worked for an engineering firm that did visual CBR values because subsurface investigations were not always required. He stated it was a caveat that was included in the contract to ensure if it needed to be done then there would be an additional cost. Supervisor Diamond remarked for the record without having the actual agreement that framed out the timeline for the work to be completed or the original agreement that was awarded to this company in past years, he would be voting in opposition. Chairman Thomas asked Supervisor Diamond if he would like to request a roll call vote on proposed Resolution No. 202, *Authorizing Agreement with Jacobs Civil Consultants, Inc. to Provide Consultant Services for All Services Related to the Pavement Management Plan at the Warren County (Floyd Bennett Memorial) Airport*, and Supervisor Diamond replied affirmatively.

In regard to proposed Resolution No. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, Supervisor Braymer stated the County had recently missed an opportunity through NYSAC to advocate for more cellular and broadband infrastructure funding through a Federal Stimulus package, but the County had provided a large list of infrastructure projects because NYSAC had requested a wish list of projects that would assist the communities here. She said at this time she had suggested that they advocate for Federal funding for broadband and cellular infrastructure needs which she thought they could all agree that Federal Stimulus to bridge the digital divide in our County would dovetail well with State funding through the Broadband Program office, as well as other State funding and would be especially useful at this time. She informed the County currently may not have shovel ready cellular and broadband projects, but this could have been raised to NYSAC to enforce how serious the County was about solving this issue for its residents; however,

she noted, not one of the Town Supervisors who would be voting in favor of proposed Resolution No. 206 supported her in this advocacy effort. She mentioned if they indeed wanted to improve cellular and emergency communications infrastructure as noted in proposed Resolution No. 206 was so imperative, then they needed to set aside politics and take every opportunity to do whatever was possible for their residents. She advised while she was not in favor of the exact wording of proposed Resolution No. 206 because they had not done their homework nor had they done their due diligence to proposed specific changes to the APA, she was supportive of finding better ways to improve cellular coverage which was why she would be voting in favor of proposed Resolution No. 206. In addition, she said Supervisor Hogan had pointed out there were future opportunities for advocating for improved broadband coverage which they both felt was important more specifically in this time of online learning and telemedicine. She apprised Mr. Moore had suggested they form an Ad Hoc Committee for the purpose of working on broadband issues throughout the County which she would be pleased to serve on and she urged Chairman Thomas to create this Committee.

Supervisor Simpson advised over the last few years the County had been advocating in Washington D.C. through NACo with NYSAC, who had scheduled the meetings to work with Senator's Gillibrand and Schumer on a Federal Infrastructure program which had not been completed at the Federal level and was specifically for cellular and broadband coverage. He said there was progress in that, but they needed to keep urging their Federal representatives to make that occur and come to an agreement so the County did have those Federal funds. Supervisor Simpson pointed out proposed Resolution No. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, was not requesting for the State to fund cell towers in the Adirondacks, with the purpose being to create a level playing field which permitted private investment in the Adirondacks. He apprised the Adirondacks were not asking the State to fund everything for them, as less government was needed and more opportunity for private businesses to be profitable in the Adirondacks to ensure they were not the ones who did not have them as other areas did.

Supervisor Leggett stated the County had received a copy of a Resolution adopted by Washington County with a similar intent, but he preferred the language they used in theirs because this one appeared to put the odious of the lack of cell phone coverage in the Adirondacks on regulation for the policy implemented by the APA Board when it actually came down to a matter of economics which was the real weak link and reason there was no cell phone coverage in the Adirondacks because it was not economically viable for these companies. He informed he had spoken to a representative who was working with the First Net with AT&T earlier this week to erect twenty towers across the Adirondack Park and 250 throughout the State as part of this larger federal program and they currently had those applications in front of the APA and were working through some of them, one of which was located in the Town of Chester. He indicted one of the issues they ran across in regard to economics was a cell tower that handled one location was not strong enough to handle two resulting in them having to replace towers which cost money. He said the push to get these private companies to invest in the region with the only way to make it profitable for them was to assist with public funding; however, he noted, there were issues with that as all of the municipalities were suffering from broadband expansion within the State and they were located in the Adirondacks without complete coverage of broadband and areas left out like the Town of Chester who was left "holding the bag" with Hughes Net while Slick was working with the Towns of Thurman and Johnsbury, as well as moving into Essex County, etc. He continued, other providers such as Spectrum were more reluctant to build out because it was not profitable for them even though they were receiving government funding and subsidies to expand into these areas. He advised the reason he was brining this up related to the fact that they pointed to regulation as being the issue to economic development, but they really needed to consider their location which consisted of mountains and valleys and was a difficult terrain in the first place for cell phone coverage. He continued, apprising the other consideration was that there was not a population that could support the investment of these private companies who were looking at cost benefit ratios.

Supervisor Wild advised Ms. Kissane had mentioned a revision to proposed Resolution No. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, referencing the correct act and he was open to amending the proposed resolution if the Board would like to move forward with the proposed amendment. Chairman Thomas asked which section of the proposed resolution the amendment pertained to and Ms. Kissane replied instead of having "Tower Policy" in quotes which was what they referred to the regulation as in the proposed resolution it would be referenced by the correct document name which was "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park".

A motion was made by Supervisor Wild and seconded by Supervisor Strough to amend proposed Resolution No. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, as outlined above.

Supervisor Leggett apprised that Supervisor Seeber had mentioned earlier in the meeting adding on the elected officials this resolution should be forwarded to within the body of the resolution and he asked whether this was still a valid concern. Chairman Thomas responded if Supervisors Strough and Wild did not object this could be handled along with the change in the name of the policy. Supervisor Seeber informed she was aware that other Counties had adopted resolutions that were identical to what was being proposed here today, but for clarification purposes she inquired whether they needed to list all of the places that the resolution needed to be forwarded on to because it was her understanding once the resolution was adopted it was public and could be forwarded on to anyone and she asked if this was a correct assumption. Mrs. Allen replied when names were included in a resolution, it authorized her to automatically distribute certified copies of the resolution; she added it indicated who the Board was directing the resolution towards. She said they could distribute resolutions to anyone after it was public; however, she noted, by including specific names in the resolution the Board was indicating who they wanted the resolution to reach. Supervisor Seeber stated following her discussion with Mr. Moore it was her understanding that after the resolution was adopted it could be forwarded on to anyone they would like to receive a copy of it once it was a public document so the need to amend the resolution to include the names of the individuals they would like it forwarded to was unnecessary, but she would like to clarify that her assumption was correct. Mr. Moore responded the Board could amend it to add the individuals they would like the resolution forwarded on to or they could forego the amendment and notify Mrs. Allen or himself where they would like it distributed.

Chairman Thomas apprised currently the amendment before them was to change the name of the policy and the Supervisors who had made the motion and the second for the amendment were both agreeable to adding names to the resolution; however, he noted, unless someone provided them with a listing of who they would like the resolution forwarded to he would be ending the discussion.

Supervisor Simpson informed the APA policy regarding towers did not specifically state the tower height and there was no direct change that related to how they viewed administering their act. He said he was not concerned with the name of the policy, but rather the substance which provided the appropriate message.

Chairman Thomas called the question and the motion to amend proposed Resolution No. 206, *Requesting the Adirondack Park Agency Review and Modify Current Cell Tower Regulations*, to change the name of the policy was outlined above was carried by majority vote, with Supervisor Hogan abstaining.

Supervisor Braymer advised she would like to echo Supervisor Leggett's comments regarding the importance of public financing because they did have private entities coming to the Adirondack Park, with several applications for new cell phone towers either approved or pending. She said this meant it was not necessarily that the private investors would not come to the Adirondack Park, but rather that

it did not always make economical sense for them to do so which was why she felt public financing was important. She added it also proved that they did not do their due diligence on this resolution because they had never invited any of the private companies to discuss the issues they had with installing towers in the Adirondacks.

In regard to proposed Resolution No. 217, *Ratifying the Actions of the County Attorney in Withdrawing Litigation Against David Decker*, Supervisor Braymer stated she was aware Ms. Kissane had indicated earlier in the meeting the Board would have a large disagreement about the proposed resolution; however, she noted, this was not the case, but she wanted to ensure they were aware of her disappointment regarding the stipulation of discontinuance was filed with the County Court before the full Board had an opportunity to vote on this. She remarked she concurred that the lawsuit should be withdrawn, but if this was a different issue that she did not agree with and the action had already been taken without her having a chance to vote she would have been very upset and she did not believe this was the correct process because they should not be entering into binding actions without the approval of the full Board. She added Mr. Decker's attorney had indicated for several months now they were going to sue the County, apprising she was unsure why they were not alerted sooner about this and then this action was required so quickly without the approval of the Board at today's meeting.

Supervisor Beaty advised in regard to proposed Resolution No. 217, *Ratifying the Actions of the County Attorney in Withdrawing Litigation Against David Decker*, the Board had never been permitted to terminate the lawsuit, but the lawsuit was now terminated which he believed by statute was a decision that could only be rendered by weighted vote. He said he had no knowledge of this action, as the Personnel & Administration Committee had recommended that it be terminated following which it was already terminated and as a representative of the Town of Queensbury he never had the opportunity to vote on this action nor did the vast majority of the Board. He informed he felt it was a moot point to even have a resolution pertaining to this action before them because from his perspective they had allowed a Committee to determine for the full Board that the lawsuit should be dismissed which he was troubled by. He mentioned maybe the County Facilities Committee would begin to initiate or withdraw lawsuits on their own if this was the only action required. He voiced his disdain for this action and how inappropriate it was, apprising he would be voting in opposition of the proposed resolution. He stated he would like to not have to vote on this because they should not be voting on an action that had already occurred.

Supervisor Merlino exited the meeting at 12:22 p.m.

Mr. Lehman interjected that there was a public comment regarding this resolution from G. Travis Whitehead, *Town of Queensbury Resident*, who stated the following: "I would like to make sure that all of you understand that Resolution No. 217 was a blatant affront to the very legitimacy of this Board. Though the words were cleverly parched it falsely puts a question to you that had already been decided. A bell that cannot be un-rung and as such if it is even considered today you are violating the trust the public had placed in your hands. I have put all of the particulars into a document which is in your hands and I will not repeat myself here. Suffices to say the Decker lawsuit had already been dismissed for reasons that are unclear, but that is not a matter for debate or even a vote today, as its dismissal had already been decided for you. A negative vote on Resolution No. 217 would be meaningless and therefore your vote had been made meaningless. You have been robbed of due process and the public has been robbed of their representation in this matter. The only thing that could be done today was to examine how you got to this point and to institute controls to ensure this situation is not repeated in the future. The lesson to be learned is that by the Rules of this Board a Committee vote never authorized anything beyond brining the matter before the Board where it would be decided by a weighted vote and anything else could be in violation of the Equal Protection Act. I am sure that most of you understand already, but you have to wonder if your County Attorney and County Administrator understand that, as well. Both should be admonished for allowing this sequence of events to unfold and

worse never letting you know ahead of time that this lawsuit was dismissed after the Committee meeting and long before today's scheduled vote".

Chairman Thomas inquired whether there were any other public comments and Mr. Lehman replied in the negative.

Supervisor Hogan informed these had been incredibly stressful days for everyone and what she believed they were struggling with today related to a sloppiness of process. She said this did not relate only to proposed Resolution No. 217, *Ratifying the Actions of the County Attorney in Withdrawing Litigation Against David Decker*, as they had hurried on a few actions today without taking the time and consideration that was due and moving forward she would like to encourage the Board to first take a breathe and be forgiving of one another in that they were all doing the best they could during a pandemic without a play book. She added they also needed to tighten it up because they could do better. Supervisor Wild advised while he had taken issue with some of their last minute decisions in some cases a decision was required based on a timeline and in this case a decision was required immediately. He stated it had been discussed at the Committee meeting which was broadcast on YouTube and Facebook where the public and any other Supervisors who wanted to attend could do so and participate in the discussion. He indicated this was a decision that had directed them to make an immediate determination.

Mr. Moore stated he would like to echo Supervisor Hogan's comments regarding the fact that everyone was attempting to do the best they could under non-ideal circumstances. He advised he would also like to note it was not without precedent for the Board of Supervisors to ratify actions that had already been taken and he would be interested to see how many times this had occurred in the past. He mentioned the very act of bringing this civil suit against Mr. Decker was handled through ratification so if anyone wanted to make the argument that the process was illegal or not against statute he would like to see what statute that was and maybe they should review the action that brought the lawsuit in the first place. He apprised there was litigation concerning occupancy tax that had recovered a significant amount of money for this County that had been approved in a similar fashion. In response to Supervisor Wild's point, Mr. Moore stated they lived in a real world with real deadlines where they did the best they could

Chairman Thomas called for a vote on resolutions, following which Resolution Nos. 196-224 were approved, as presented with the exception of Resolution No. 206, which was amended from the floor.

During the roll call vote on Resolution No. 212, *Authorizing Revocable Bikeway Right-of-Way Private Use Licensing Agreement with Stewart's Corporation for Land Use for a Parking Lot*, Supervisor McDevitt advised upon occasion they objectively looked at pieces of real estate, automobiles paintings, etc. and they came to the conclusion it was not fundamentally right. He said there were some pros and cons as it related to the Stewart's Project in the City of Glens Falls, but at the end of the day in his opinion the project was too large for the neighborhood and should be half its current size. He said the positive part of the project was that they had done a nice job with the landscaping, they were a good employer and had completed a quality project, but at the end of the day it was too large for the area it was located in the City of Glens Falls which consisted of hundreds of homes. He stated he would be voting in opposition of proposed Resolution No. 212 as a way of protesting the size of the project.

Chairman Thomas called for public comments from anyone wishing to address the Board on any matter.

Mr. Lehman apprised there was a follow up comment from Mr. Whitehead who stated the following: "We have never been told of any critical time element in dismissing the Decker lawsuit, as it was initiated

under a time constraint however and while I noted that I did not complain about it. Furthermore I strenuously object to Decker being named as defendant when this was initiated as being the wrong party and apparently his defense attorney agrees and now forced this dismissal. I am disappointed in the Administrator's comment saying that this has happened before as if it was no big deal. I agree with Supervisor Hogan that we can and should do better".

Chairman Thomas called for announcements.

Supervisor Shepler stated the Town of Thurman regretted to announce the cancellation of its Monday Nights Concert Series and the cancellation of the end of season fireworks due to the restrictions placed upon the Town as a result of the pandemic.

Supervisor Braymer announced the City of Glens Falls was opening Haviland's Cove beach for swimming on June 29<sup>th</sup> with a fee for vehicle parking.

Supervisor Seeber advised due to *COVID-19* she did not have the opportunity to recognize and discuss National Crime Victims' Rights Week, but she would like to notify them of a national and regional effort that was taking place tomorrow that Mr. Lehman would be posting on the County social media sites and ask the Board Members to consider on June 20<sup>th</sup> to light a luminary or candle outside their houses. She said they were asking this in recognition of crime victims' and inviting people to join to remember our loved ones who had experienced victimization. She said it was important to continue to support each other as they looked for recovery, justice and a sense of hope in the future with this year's theme being "Seek Justice, Enforce Victims' Rights and Inspire Hope". She advised this continued to challenge all of them to raise awareness for victims's rights and inspire hope for our victims', survivors and communities for future progress and for greater healing and she would certainly appreciate any efforts any of the Board Members could do to light a candle outside of their homes tomorrow to continue to recognize those that were victimized and the problems they were continuing to have in their criminal justice system.

Supervisor Strough informed he would like to highlight the fact that the Fund for Lake George had named Robert Blais, *Mayor, Village of Lake George*, their Person of the Year in recognition of his efforts to save and enhance the quality of Lake George's water. He stated he wanted to bring that recognition forward, as he believed it was of significance and Mayor Blais was well deserving of the acknowledgment.

Supervisor Beaty apprised he would like to make a follow up comment to Supervisor McDevitt's statement regarding the new Stewart's location in the City of Glens Falls which he walked by everyday. He remarked he felt the project was professionally handled, as he rarely saw facilities that were landscaped and as clean as this location.

Chairman Thomas called attention to the Proclamation included in the Agenda packet proclaiming June 15, 2020 to be "Elder Abuse Awareness Day". He added he felt that everyday should be Elder Abuse Awareness Day.

Supervisor Conover encouraged everyone to read this months edition of the Association of Towns magazine which included a number of great articles, one of which involved the Town of Bolton which was well written.

There being no further business to come before the Board of Supervisors, on motion made by Supervisor Dickinson and seconded by Supervisor Simpson, Chairman Thomas adjourned the Board Meeting at 12:46 p.m.