

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: EXECUTIVE COMMITTEE

DATE: FEBRUARY 11, 2021

COMMITTEE MEMBERS PRESENT:	OTHERS PRESENT:
SUPERVISORS BEATY	RACHEL E. SEEBER, CHAIRWOMAN OF THE BOARD
BRAYMER	RYAN MOORE, COUNTY ADMINISTRATOR
GERAGHTY	AMANDA ALLEN, CLERK OF THE BOARD
THOMAS	RYAN DICKEY, SECOND ASSISTANT COUNTY ATTORNEY
MAGOWAN	SUPERVISORS LEGGETT
SHEPLER	MERLINO
HOGAN	STROUGH
DICKINSON	TAMMIE DELORENZO, ASSISTANT TO THE COUNTY ADMINISTRATOR
SMITH	WAYNE LAMOTHE, DIRECTOR, PLANNING & COMMUNITY DEVELOPMENT
FRASIER	DON LEHMAN, DIRECTOR OF PUBLIC AFFAIRS
DRISCOLL	JEREMY SCRIME, SENIOR COMPUTER SYSTEMS ANALYST/PROGRAMMER
DIAMOND	MIKE SWAN, COUNTY TREASURER
CONOVER	SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD

Please note, the following contains a summarization of the February 11, 2021 meeting of the Finance Committee; the meeting in its entirety can be viewed on the Warren County website using the following link: <https://warrencountyny.gov/gov/comm/archive/2021/Executive>

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". All committee members were physically present, aside from Supervisors Beaty, Hogan, Dickinson, Smith, Frasier, Driscoll, Diamond and Conover who participated via videoconference.

Mr. Beaty called the meeting of the Executive Committee to order at 3:36 p.m.

Copies of the agenda were distributed to those present, those attending remotely accessed the agenda via the Warren County website; a copy of the agenda is on file with the meeting minutes.

Mr. Beaty apprised since this was the first time the Committee was meeting there were no prior minutes to approve. He informed moving forward he would be stepping down from the Chair to allow the Chair position to rotate in succeeding order each time they met.

Commencing the Agenda review, Mr. Beaty called for a motion to approve the requests for transfers of funds, as included in the agenda packet for Committee approval. *These transfers were included on the January 29, 2021 Finance agenda, but were inadvertently overlooked and were not approved.*

Motion was made by Mr. Magowan, seconded by Mr. Diamond and carried unanimously to approve the request and the necessary resolution was authorized for the February 19th Board Meeting.

Proceeding to Agenda Item 2, Mr. Beaty advised this pertained to a request to appropriate \$50,000 from the General Fund Unappropriated Surplus account to Budget Code A.1680 426, *Information Technology, Subscriptions*, to cover the cost of security monitoring software for both data and physical devices within the County's network. *At their January 29, 2021 meeting the Finance Committee authorized a transfer of funds from the Contingent Account in the amount of \$30,000 with the intention of providing the remaining \$20,000 from a Board of Elections grant. Subsequent to that meeting it was discovered that a determination on when, or if, this amount of funding would be available from the BOE grant could not be made until after their current technology project was complete. In order to advance the security project, an alternate source of funding is required; if the \$50,000 appropriation is approved, the prior authorization for a \$30,000 Contingent Account transfer will be withdrawn.*

Ryan Moore, *County Administrator*, stated this item had initially been approved as a transfer of funds in the amount of \$30,000 from the Contingent Account by the Finance Committee during which they decided if the full amount of \$50,000 was required then an appropriation from the General Fund Unappropriated Surplus would be necessary. He stated following the Finance Committee meeting it was determined that the amount of funding leftover from the Board of Elections grant could not be determined for a few months and in the interest of holding the prices with the vendors for the security monitoring software that were on State contract the Director of Information Technology was requesting the appropriation in the amount of \$50,000 from the General Fund Unappropriated Surplus to move forward with purchasing this software now.

Mr. Thomas asked if it was possible to stipulate that any funding leftover from the Board of Elections grant be returned to the General Fund Unappropriated Surplus account and Mr. Moore replied affirmatively. Mr. Moore advised he felt it was appropriate that any grant funding that materialized, including the grant the Director of Information Technology had applied for could be applied toward this expense, would be returned to the General Fund Unappropriated Surplus account in a corresponding amount.

Motion was made by Ms. Braymer, seconded by Mr. Magowan and carried unanimously to approve the request as outlined above and the necessary resolution was authorized for the February 19th Board Meeting.

Mr. Beaty stated Agenda Item 3 pertained to a request to amend the Rules of the Board to adjust the number of Committee members on the Executive Committee (*increased 1 to address a clerical error*) and to increase the number of members on the Public Works Committee, as well as to clarify the purpose and authority of the Executive Committee. *Due to a clerical error the Chair of the Park O&M Committee was not accounted for in the members of the Executive Committee; the Board Chair; with agreement by the Committee Chair, has requested that the Public Works Committee be expanded by two members. Rules should also be revised to indicate the purpose of the Executive Committee and to clarify that it shall have all the same powers as any other Committee.*

Ms. Braymer apprised she was uncomfortable moving this forward, as she believed the purpose of this Committee was to deal with emergency type issues and there had been a significant amount of discussion regarding this Committee and the Rules of the Board.

Motion was made by Ms. Braymer, seconded by Ms. Shepler and carried by majority vote, with Mr. Conover voting in opposition, to table the request and refer it to the Governmental Operations & Advocacy Committee.

Mr. Dickinson entered the meeting at 3:42 a.m.

Mr. Beaty announced Agenda Item 4 involved a request to authorize the Chair of the Board of Supervisors to designate the Clerk of the Board of Supervisors to decide and review/authorize/sign FOIL (*Freedom of Information Law*) appeals when there was a conflict of interest. *The County's current FOIL Policy is silent on how conflicts of interest are to be addressed as they apply to the FOIL Appeals Officer.*

Mr. Moore indicated the State Law defined the FOIL Appeals Officer as the Chief Executive of the Government which in the case of Warren County was Chair of the Board of Supervisors. He said the question came to light regarding what the FOIL Appeals Officer did in an instance when there was a potential conflict if that individuals records were the ones that were subject to FOIL and the State Public Officer's Law indicated the Chair of the Board had the ability to designate an alternate to handle FOIL appeals if this were to occur. He advised as a result of the County having a FOIL Policy in place a request was made to formalize this designation with a resolution rather than allowing the Chair to move forward with that designation themselves.

A motion was made by Mr. Magowan and seconded by Mr. Diamond to approve the request as outlined above.

Mr. Geraghty suggested this individual be an elected official, such as one of the Board members. Mr. Moore stated if that was how the Committee and Board would like to move forward that was well within their discretion to do so. Mr. Moore advised according to the Committee on Open Government, because he was the Records Access Officer he could not also be the FOIL Appeals Officer. He added they had also indicated it would not be appropriate for the County Attorney's Office to serve in this capacity, as they were providing him with legal advice as the Records Access Officer. He mentioned beyond those individuals it was essentially the pleasure of the Board, apprising he believed this was brought before them because the Chairwoman of the Board was uncomfortable making this designation on her own and wanted feedback and support from the rest of the Board on that designation. Mr. Geraghty voiced his opposition to designating the Clerk of the Board of Supervisors to decide and review/authorize/sign FOIL appeals when there was a conflict of interest, adding he believed this should be a member of the Board of Supervisors.

Mr. Dickinson stated he concurred with Mr. Geraghty, as he believed it was inappropriate to put the Clerk of the Board of Supervisors in that position. He said many of the FOIL requests were from the same individuals and the Board members, who were elected officials, should be able to handle it themselves.

Mr. Conover remarked he believed in the absence of the Chair this responsibility should fall on the Vice-Chair of the Board and should that individual not be able to respond then the duty should fall on the Budget Officer or the Chair of the Personnel, Administration & Higher Education Committee because they were the Officers of the Board. He added when the Chair of the Board was unable to serve in that capacity the Vice-Chair assumed the duties and the same should be applicable here.

Mr. Diamond advised he felt it was appropriate to select an elected official to serve in that capacity, such as the

Vice-Chair of the Board or a previous Chair of the Board because they were experienced in dealing with FOIL requests. He said he would agree with whatever the Board decided, but his suggestion would be to designate one of the previous Chairs of the Board of Supervisors because of their experience. He stated if the former Chair of the Board was willing to do that this would be beneficial, but if not they could ask another previous Chair who has had experience in that regard.

A discussion ensued following which Mr. Magowan amended his motion and Mr. Diamond amended his second to change the designation of the Clerk of the Board of Supervisors to the prior Chair of the Board to decide and review/authorize/sign FOIL appeals when there was a conflict of interest.

Mr. Conover indicated he did not have an issue with Mr. Thomas, as the prior Chair of the Board assuming those responsibilities and in the event that he was unable to assume those duties he, as the Chair of the Board prior to Mr. Thomas, would do so; however, he noted, he was unsure why they were bypassing the Board's entire leadership structure for something such as this that would likely only occur on rare occasions.

Ms. Braymer inquired how FOIL conflicts were handled by the previous Chairs of the Board of Supervisors and whether there was a written policy. Chairwoman Seeber responded perhaps this was because appeals had not occurred as often with prior Chair's; however, she noted, she was aware since 2018 there was a policy that those appeal decisions were distributed to the Board. She said she felt this was something that needed some clarification and she was confident they would be following that policy and the Board members would all be made aware of how many appeals were handled. She added she was unsure how many times in the past there had been a conflict with the Appeals Officer, but the first appeal that was filed this year pertained to her and she was uncomfortable making that decision upon the advice of legal counsel. She informed following her decision on that appeal the Committee from Open Government advised them there was an alternative and based on this advice from them they presented a request to the Personnel, Administration & Higher Education Committee for a resolution even though one was not required, adding the policy needed to be amended. She indicated they were present today to make an appropriate, informed decision in the spirit of which she continued to hear everyone discuss inclusiveness. In response to Supervisor Conover's point, Chairwoman Seeber apprised a conflict should not occur very often, but when it did it should be handled by individuals with experience with these types of matter which were the previous Chairs of the Board. She informed NYSAC (*New York State Association of Counties*) had suggested designating the Clerk of the Board in cases when there was a conflict with the Chair and many others had suggested all types of employees. She added the Clerk of the Board had mentioned there may be times when she would have conflicts in cases when an appeal referred to matters, such as the Chair of the Board's mileage reimbursement whose records were maintained by her Office which was why this may not have been a good solution and was why the members of this Committee had been emailed three different options earlier today that could be discussed. She stated she was appreciative of the dialogue, apprising as long as Mr. Thomas, as the prior Chair of the Board, was comfortable making these decisions in the situations where she had a conflict she felt this was a viable solution. She advised a Local Law adopted in 1968 identified the Chair of the Finance Committee as responsible for standing in her absence or when she was unavailable or incapacitated; however, she noted, it did not speak to conflict and was why they were present today to discuss that. In regard to the request to designate someone with prior experience, Chairwoman Seeber indicated she did not believe anyone could have more experience working on FOIL appeals than the prior Chair of the Board or the Town Supervisors themselves that had been appeals officers in this particular instance. She mentioned if there was a FOIL appeal that concerned herself and Mr. Thomas then the responsibility to handle

FEBRUARY 11, 2021

the appeal would fall on Mr. Conover, who had served as the Chair of the Board prior to Mr. Thomas and going forward into next year the duties would fall on the prior Chair's in chronological order who were still serving as members of this Board. She said this would prevent any of them from selecting one of their friends or someone they liked to make a decision on an appeal. She mentioned this was a position and not an individual and she believed this was the more appropriate way to handle it, but she would defer to this Board to make that decision and she was appreciative of being provided with the opportunity to explain the position she was in today.

Mr. Beaty called the question and the motion to designate the prior Chair of the Board to decide and review/authorize/sign FOIL appeals when there was a conflict of interest was carried by majority vote, with Mr. Conover voting in opposition, and the necessary resolution was authorized for the February 19th Board Meeting.

Mr. Beaty apprised Agenda Item 5 concerned a request to appoint Washington County representatives to the Warren-Washington Industrial Development Agenda. *Warren County appointments were adopted at the January 15th Board Meeting, a resolution is needed to adopt Washington County's based on the draft resolution provided.*

Motion was made by Mr. Dickinson, seconded by Mr. Thomas and carried unanimously to approve the request and the necessary resolution was authorized for the February 19th Board Meeting.

Agenda Item 6, Mr. Beaty stated, pertained to a request to commit to providing \$1 million towards addressing the needs at Countryside Adult Home which were identified in the Beardsley report dated March 6, 2019. *The Planning Department has identified a potential source of grant funding to implement some of the improvements and repair to Countryside Adult Home outlined in the Beardsley report. The total amount of work that needs to be done is around \$1.5 million; there is currently \$250,000 in the reserve for Countryside repairs, the grant would be \$300,000, leaving \$1 million to be bonded and paid off over five years - this bond will only be sought if the grant is awarded.*

Mr. Magowan advised he believed the County would be applying for some grant funding for this purpose, but he would defer to Wayne LaMothe, *Director, Planning & Community Development*, when he was available to speak to this. He stated Countryside Adult Home was in need of some repairs and if they continued to hold off on making them it would cost more money. He added a portion of the cost of these repairs would be covered by grant funding.

Mr. LaMothe indicated the State had made available funding in the amount of \$300,000 for public facilities and one of the projects they had previously done was an assessment of the needs of Countryside Adult home and was known as the Beardsley report which was completed in 2019. He mentioned this report included a spreadsheet listing a number of recommendations which was comprised of both necessities and desires. He mentioned he had discussed with the Superintendent of Public Works what could be paired down on this report to ensure it only included items that were structurally necessary to meet code requirements. He said the spreadsheet included in the agenda related that to immediate and priority needs, the total cost of which was around \$1.5 million. He apprised the grant funding totaled \$300,000 and there was also \$250,000 available in the reserve fund which left around \$1 million to pay for these repairs. He mentioned according to the grant all of those needs were required to be met and it was up to the Board whether they wanted to move forward with this opportunity and fund the remaining costs with a Bond or by allocating funds from the General Fund Unappropriated Reserve account. He indicated if the Board decided they would like to move forward with committing to provide \$1 million towards addressing the needs at Countryside

FEBRUARY 11, 2021

Adult Home which were identified in the Beardsley report dated March 6, 2019 then his Office would move forward with submitting the grant application for the \$300,000 in funding.

A motion was made by Mr, Dickinson and seconded by Mr. Thomas to commit to provide \$1 million in funding towards addressing the needs at Countryside Adult Home as outlined above.

A discussion ensued during which the Committee members discussed how they would like to fund the County's portion, such as appropriating the funds from the General Fund Unappropriated Surplus account or possibly taking out a five year BAN (*Bond Anticipation Note*). Mr. Moore pointed out a portion of the expenses at Countryside Adult home were reimbursable by the NYS DOH (*New York State Department of Health*) and there was a difference between how they would reimburse the County if the repairs were paid from the General Fund Unappropriated Surplus account or through Debt Service on borrowed funds and this needed to be determined before a decision could be made. Mr. Swan cautioned the Committee members to be mindful they were already borrowing around \$5 million to pay for the repairs to the retaining wall on Sagamore Road in the Town of Bolton and the Road Projects which would increase the County's Debt service even more and would be difficult to budget for during a time when they had unknown revenues. In regard to the question posed by Mr. Moore concerning the reimbursement from the NYS DOH, Mr. LaMothe apprised he had inquired about this to Christian Hanchett, *Commissioner, Department of Social Services*, and he indicated he was unsure and would look into this. Mr. Beaty inquired whether a decision needed to be made today regarding how the County would fund the \$1 million and Mr. LaMothe replied in the negative, explaining they were only looking for a resolution from the County committing to provide \$1 million in funding towards addressing the needs at Countryside Adult Home which were identified in the Beardsley report dated March 6, 2019.

Ms. Hogan entered the meeting during the discussion at 4:17 p.m.

During the discussion Ms. Braymer asked Mr. LaMothe for a status update on prioritizing the other infrastructure projects in the County that began when Mr. Conover served as Chair of the Board. Mr. LaMothe responded one of the reasons he considered submitting an application to the State for this funding round was because Countryside Adult Home was included in the Capital Improvement Plan. He added he had discussed submitting an application at the last Economic Growth & Development Committee meeting for the Warrensburg Sewer District and the Pottersville Water District, both of which were also included in the Capital Improvement Plan. He indicated to the extent that they could or if there was a funding source available they were selecting projects from the Capital Improvement Plan that related to the operations of Office.

Mr. Beaty called the question and the motion to commit to provide \$1 million in funding towards addressing the needs at Countryside Adult Home was carried unanimously and the necessary motion was authorized for the February 19th Board Meeting.

Proceeding to the Discussion Items, Mr. Beaty apprised there was one item concerning the date selection of the 2021 Americade event which was scheduled for the same weekend as the Adirondack Balloon Festival. Mr. Geraghty stated he had asked Christian Dutcher, *Director of Americade, Inc.*, whether it would be possible to move their event to a different weekend and Mr. Dutcher had replied in the negative because if they moved it to a later date individuals would not want to ride their motorcycles. Mr. Geraghty informed beginning March 14th and ending in

FEBRUARY 11, 2021

October there were fifteen motorcycle events scheduled all across the Country and it was not practical for them to try and compete with one of them for attendees. He apprised he had requested that Mr. Dutcher attend the next meeting of the Tourism & Occupancy Tax Coordination Committee which he believed would be on Monday, February 22nd to address these issues. He said Mr. Dutcher would like to keep his event scheduled during the month of June, but because there was no guarantee and event of that caliber would be permissible at that time and they did not want to run into another situation where the County provided occupancy tax funds for an event that was cancelled. Mr. Geraghty added they had reviewed the room nights generated by the Adirondack Balloon Festival, as well as those generated by Americade, Inc. and he believed there would be a conflict with having enough rooms available for patrons of both events on that same weekend.

A discussion ensued.

Concluding the agenda review, Mr. Beaty noted there were no pending or referral items to address; he called for any public comments and Don Lehman, *Director of Public Affairs*, advised he had received an email regarding the FOIL Appeals Officer from June Maxam. He advised Ms. Maxam indicated in regards to the proposed resolution concerning the FOIL Appeals Officer that was on the agenda for today's Executive Committee meeting to please be advised that as per Kristin O'Neill, *Assistant Director of the NYS Committee on Open Government*, at a webinar conducted today on FOIL if the County Attorney was running the decisions in response to FOIL appeals as they all knew she or her staff were then they should be the ones who signed the response as the FOIL Appeal Officer and not anyone else who clearly did not have the legal expertise to issue legal opinions such as Rachel Seeber, Amanda Allen or any other non-attorney. She also noted that Ms. O'Neill and the Committee on Open Government has opined that Supervisors and other public officials who use their personal email addresses to discuss County business were subject to FOIL. She mentioned they could not use a personal email in an attempt to circumvent FOIL. He stated Ms. Maxam also indicated she disagreed with Mr. Moore's comments that the Committee on Open Government stated that the County Attorney could not be the Appeals Officer, as this was contrary to what Ms. O'Neill had indicated this morning and she suggested they be truthful.

There being no further business to discuss, on motion made by Mr. Dickinson, seconded by Ms. Hogan and carried unanimously, Mr. Beaty adjourned the meeting at 4:31 p.m.

Respectfully submitted,
Sarah McLenithan, Deputy Clerk of the Board