

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS

DATE: FEBRUARY 23, 2021

COMMITTEE MEMBERS PRESENT:

SUPERVISORS: CONOVER
HOGAN
DICKINSON
THOMAS
BRUNO
GERAGHTY
MERLINO

OTHERS PRESENT:

KEVIN HAJOS, SUPERINTENDENT OF PUBLIC WORKS
TIM BENWAY, DIRECTOR, PARKS, RECREATION & RAILROAD
RACHEL E. SEEBER, CHAIRWOMAN OF THE BOARD
RYAN MOORE, COUNTY ADMINISTRATOR
MARY ELIZABETH KISSANE, COUNTY ATTORNEY
AMANDA ALLEN, CLERK OF THE BOARD
SUPERVISORS BRAYMER
DRISCOLL
FRASIER
MAGOWAN
WILD
TAMMIE DELORENZO, ASSISTANT TO THE COUNTY ADMINISTRATOR
WAYNE LAMOTHE, COUNTY PLANNER
DON LEHMAN, DIRECTOR OF PUBLIC AFFAIRS
TOSHA BROWNELL, COMPUTER HELP DESK TECHNICIAN
SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD

Please note, the following contains a summarization of the February 23, 2021 meeting of the Public Works Committee; the meeting in its entirety can be viewed on the Warren County website using the following link:
<https://warrencountyny.gov/mma>

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 of the Committee members in attendance participated via video or teleconference, except for Supervisors Thomas and Merlino who were physically present.

Mr. Conover called the meeting of the Public Works Committee to order at 10:00 a.m.

Prior to commencing the agenda review, Mr. Conover advised he would like to make an announcement and ask a question. He said recently there had been a significant amount of discussion regarding the Rules of the Board and whether it was permissible for Committee Chairs to vote on matters going before the Committee. He stated he could not locate anything in the Rules of the Board that prevented a Committee Chair from voting on matters and the historical practice had been that Committee Chairs voted, but this was being questioned by some of the Board members. He indicated he was unsure if a resolution would be brought before the Board, but until such time his sense was as the Chair of the Public Works Committee he was entitled to vote on matters brought before the Committee and he inquired whether any of the Committee members took issue with that. Mr. Dickinson responded he fully concurred with Mr. Conover that it was

permissible for Committee Chairs to vote on matters that went before the Committee.

Mr. Conover asked Ms. Hogan if she took issue with him continuing to vote on matters brought before the Public Works Committee and Ms. Hogan replied that she and Mr. Conover had always worked well together and even when they disagreed they treated one another with respect and she took no pleasure in stating that this was a “cliff she would not follow him over”. She apprised there was an appropriate place and time for this discussion and by bringing it before the Public Works Committee they were retracting from the business of the day and the hard work of the County’s Departments, as well as undermining their accomplishments. She remarked she feared this relentless acrimony would cost the County dearly in the manner of alienating their excellent employees and perhaps even cause them to seek employment somewhere more serene. She pointed out when Mr. Conover served as the Chairman of the Board there had been multiple occasions when she called him to discuss a question and she was positive this occurred with other Supervisors, as well, as this was the manner in which this Board got to move forward and not stagnate in the weeds. She reminded Mr. Conover just last week at the February 19th Board Meeting he had acknowledged to her a great hypocrisy in one of the discussions and despite having previously engaged in a bitter and protracted dispute with one individual involved in that moment rather than call that individual out he indicated that he had faith that this individual would right their wrong. She remarked it made her very uncomfortable when he afforded the latitude to that individual, but not to Chairwoman Seeber. She indicated this Board had not had the time to delve into this issue and she could in fact be in agreement with him on this point; however, she noted, she had not had time to do her research which she would do. She added she was respectfully requesting that they allow the Committee to proceed with reviewing the agendas before them.

Mr. Conover indicated he would continue on with his practice of voting on matters that went before the Committee and he fully anticipated that these votes would be recorded and if he was being told they were not going to be then that was a question for Amanda Allen, *Clerk of the Board*. He proceeded to ask Mrs. Allen whether his votes today would be recorded and Mrs. Allen replied the practice had always been that opposing votes were counted against the motion and not the votes in favor; therefore, she said, if a motion was approved and no one voted in opposition it would be counted as a unanimous vote. Mr. Conover stated he could not locate anything in the Rules of the Board that banned him from voting and his plan was to vote on matters, but he did not want to do that if there was an issue with this. Mary Elizabeth Kissane, *County Attorney*, informed there was nothing in the Rules of the Board that prevented a Committee Chair from voting on matters that went before the Committee and if there was a unanimous vote, because Mr. Conover was considered a member of the Committee then he would be recorded as voting in favor of whatever the motion was. Ms. Hogan interjected while there was nothing in the Rules of the Board that prevented a Committee Chair from voting they did refer to Robert’s Rules of Order which indicated the Chair of a Committee was not permitted to vote unless it was required to break a tie in the affirmative.

A discussion ensued during which Mrs. Allen apprised she was unsure how it could be defined in the Committee meeting minutes that the Committee Chair did not vote; she added her point was when the minutes were taken the individuals who voted in opposition were recorded and those who voted in favor were recorded all together. She stated as an example with this Committee there was seven members and if five of them voted in favor the motion would note that it was carried with everyone in favor, but the two Supervisors who voted against the motion and as part of the Committee it was her assumption that Mr. Conover would be considered as an affirmative unless he had opposed the vote. She advised the question

was whether it was permissible for a Committee Chair to oppose the motion.

During the discussion Chairwoman Seeber informed she did not create the Rules of the Board which was voted on each year in January. She noted a Board Workshop meeting was held that Mr. Conover had been unable to attend which included a training on the Rules of the Board where a lengthy discussion took place during which Ms. Kissane was very specific about the limitation on the Committee Chair to vote; however, she noted, it was possible since then Ms. Kissane had discovered new information regarding this. She apprised she was aware when the Rules of the Board did not speak to something it deferred to Robert's Rules of Order. She mentioned the NACo (*National Association of Counties*) Parliamentarian had arranged to provide the Board with training in April; however, she noted, if Messrs. Conover and Dickinson were uncomfortable Chairing their Committees she was permitted to make changes to Committee structures or Chairs at anytime and was more than willing to ask others to Chair them. She added she had requested that they wait for three months and if after that timeframe they were uncomfortable with the changes made then they would revisit them, but instead they were already voicing their dissatisfaction and it had only been forty-five days. She advised she was working hard on documenting all of the discussions she had with members of the Board and she was happy to move forward with making those changes, as well, but she wanted it to be noted she was following the Rules of the Board and the advice of Ms. Kissane which differed today. She informed in order to rectify this they could go back and review the video of the Board Workshop meeting where this was discussed and then determine the correct course of action. She concluded by stating she concurred with Ms. Hogan that the Public Works Committee meeting was not the appropriate place to be having this discussion and if they wanted to change them they should engage in advocacy and there was a Committee established that was reviewing this very structure. She voiced her pleasure they were discussing all of these positive concerns and was appreciative of that ability they were affording her as Chairwoman of the Board.

Mr. Conover announced his position would be unless and until such time the appropriate amendments were brought before the full Board, that he as a Chair of a Committee would continue to preserve his right to vote on matters that went before the Public Works Committee. He added until he received something in writing from the County Attorney or someone else relative to this matter this was how he would continue.

Copies of the DPW, Parks, Recreation & Railroad and Solid Waste agendas were distributed to those in attendance, those participating remotely accessed the agendas via the Warren County website. Copies of the agendas are on file with the meeting minutes.

Prior to commencing the agenda review, Mr. Conover called for a motion to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board. The necessary motion was made by Mr. Bruno, seconded by Mr. Dickinson and carried unanimously.

Commencing the review of the Parks, Recreation & Railroad agenda, Kevin Hajos, *Superintendent of Public Works*, presented a request to appropriate funds in the amount of \$6,000 from Budget Code A.691.00, *Deferred Revenue*, into various Budget Codes within the Parks, Recreation & Railroad Budget to allow for use of Junior Pearsall and Charles R. Wood Foundation Grants funding.

Motion was made by Mr. Dickinson, seconded by Ms. Hogan and carried unanimously to approve the

request and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

Moving along to the Information for Discussion/Review portion of the agenda, Tim Benway, *Director, Parks, Recreation & Railroad*, apprised typically they received their New York State Grant-in-Aid in the months of October and then the funds were released in November; however, he noted, they had just received a voucher for their Snowmobile Clubs last week. He stated the funding award was \$69,000 and the State would disburse 70% as soon as the vouchers were returned and the remaining 30% would be allocated when the audit took place for the prior season.

Mr. Geraghty asked if the amount was less then last year and Mr. Benway responded it was about \$1,000 more then the amount provided last year. Ms. Hogan inquired whether there would also be a delay in the audit and Mr. Benway replied in the negative, explaining the County currently audited the receipts that were entered into the system by the snowmobile clubs on a weekly basis following which they awaited on the State Comptroller's Office to audit their portion and release the funds. Ms. Hogan questioned if there was any indication this would be the practice going forward and Mr. Benway replied in the negative. Mr. Benway explained the delay was the result of a retirement and the pandemic.

In regard to the Referral/Pending Items portion of the agenda, Mr. Hajos stated following Mr. Strough's inquiry at the November 24, 2020 Committee meeting whether there were any general liability issues regarding snowmobilers crossing through road intersections on the railroad corridor, he had contacted the County Attorney who opined although the County was minimizing the risk there was always a possibility the County could be held liable. He informed the snowmobile clubs were responsible for indemnifying the County, were required to erect proper signage and follow NYS OPRHP (*New York State Office of Parks, Recreation & Historic Preservation*) trail guide for snowmobiles which the County verified they were adhering to. He said the County Attorney's Office indicated the snowmobilers were undertaking the risk, as NYS OPRHP placed the burden for injuries on the snowmobile operator.

A discussion ensued during which Mr. Hajos noted the signage was only placed along the railroad corridor used by snowmobile clubs the County had formal agreements with and currently the only formal agreement they had was with Thurman Connection Snowmobile Club for the four miles of railroad track they used. Ms. Hogan asked Ms. Kissane whether the County was liable since they did not have signage posted on acknowledged portions of the railroad track because she was aware the snowmobilers were using it and Ms. Kissane said she was unsure, but she would look into this and provide an answer at the next Committee meeting. Mr. Conover requested that Ms. Kissane distribute the findings to the full Board.

Proceeding to the review of the DPW agenda, Mr. Hajos presented the following requests:

1. To fill the vacant position of MEO (M) #26, *Grade 9, Base Annual Salary \$36,214*, due to promotion.
2. To fill the vacant position of MEO (M) #5, *Grade 9, Base Annual Salary \$36,214*, due to promotion.

Motion was made by Ms. Hogan, seconded by Mr. Geraghty and carried unanimously to approve Items 1 and 2 as outlined above and refer same to the Personnel, Administration & Higher Education Committee for reporting purposes. *Copies of the Notices of Intent to Fill Vacant Position forms are on file with the*

minutes.

3. To authorize a new contract with the lowest responsible bidder for application of pavement markings pursuant to the terms and provisions of the specifications (WC 7-21) and proposal for a term commencing upon execution by both parties and terminating April 30, 2022 with option to extend for up two additional one year terms.

Mr. Hajos stated typically this contract was renewed every few years provided that the vendor was agreeable to extending it for the two additional one year extensions. He informed the contract was for pavement markings throughout the County and was used by the Towns in their municipalities, as well. Mr. Conover requested that Mr. Hajos distribute the information to the full Board when the bid was awarded.

Motion was made by Mr. Geraghty, seconded by Mr. Dickinson and carried unanimously to approve the request as outlined above and the necessary resolution was authorized for the March 19th Board meeting. *A copy of the resolution request form is on file with the minutes.*

4. To authorize a new contract with the lowest responsible bidder for multidiscipline engineering services pursuant to the terms and provisions of the specifications (WC 22-21) and proposal for a term commencing May 7, 2021 and terminating May 6, 2022 with option to extend for up two additional one year terms.

Mr. Hajos apprised this was a proposal that was awarded through the best value method which was not based on cost, but rather the best fit for the County. Ms. Hogan stated she was aware the County was advertising for a few engineering positions withing the DPW and she asked if this position was in lieu of these positions. Mr. Hajos replied he had received a significant amount of applications for the vacant engineering positions and had interviewed several candidates; however, he noted, they were having a difficult time finding suitable candidates for the positions. He added the contract for multidiscipline engineering services was for work the County could not do in-house, such as the structural engineering work required on the retaining wall on Sagamore Road in the Town of Bolton. He added there was no guaranteed amount of work with these contracts with the services used on an as needed basis and required a letter of authorization from him when the County needed them to work on a task for them. He informed something he was possibly considering was to having an engineer from one of these firms work directly out of the DPW Office for a few months to assist the County with design work until he was able to fill the vacant engineering positions.

Motion was made by Mr. Bruno, seconded by Mr. Geraghty and carried unanimously to approve the request as outlined above and the necessary resolution was authorized for the March 19th Board meeting. *A copy of the resolution request form is on file with the minutes.*

5. To authorize a new contract with the lowest responsible bidder for construction contract for Palisades Road over Brant Lake Inlet Bridge Replacement Project in the Town of Horicon pursuant to the terms and provisions of the specifications (WC 5-21) and proposal for a term commencing upon execution by both parties and terminating upon completion of the work.

6. To amend the existing contract with Foit Albert Associates to include Supplemental Agreement No. 3 for Palisades Road over Brant Lake Inlet Project for additional right-of-way and construction inspection services in the total amount not to exceed \$295,567 for a term commencing upon execution by both parties and terminating upon completion of the work.
7. To amend the existing grant agreement with NYS DOT (*New York State Department of Transportation*) to include Supplemental Agreement No. 3 for Palisades Road (CR 26) over Brant Lake Inlet Repair Project in the Town of Horicon in an amount not to exceed \$1,831,570 for a term commencing upon execution by both parties and terminating upon completion of the work.
8. To increase Capital Project H322, *Palisades Road (CR 26) over Brant Lake Inlet Bridge Replacement*, in the Town of Horicon by \$1,739,991.

Mr. Hajos stated Items 5, 6 and 7 pertained to Capital Project H322, *Palisades Road (CR 26) over Brant Lake Inlet Bridge Replacement*, which the NYS DOT grant was currently still pending for. He said since NYS DOT had not come though with the grant agreement as of this morning he would like to hold off on approving those three Items and refer them directly to the Finance Committee for approval to allow for more time to receive the grant agreement. Mrs. Allen asked if Mr. Hajos was referencing agenda Items 5, 6, 7 and 8, as it appeared Item 8 also pertained to Capital Project H322, *Palisades Road (CR 26) over Brant Lake Inlet Bridge Replacement*, and Mr. Hajos replied affirmatively. He asked Ms. Allen what the proper course of action would be and Mrs. Allen responded they could all be referred to the Finance Committee for approval rather than just Item 8.

Motion was made by Mr. Dickinson, seconded by Mr. Bruno and carried unanimously to refer Items 5, 6, 7 and 8 as outlined above to the Finance Committee. *Copies of the resolution request forms are on file with the minutes.*

9. To authorize a new contract with the lowest responsible bidder for construction contract for 13th Lake Road Culvert Replacement Project in the Town of Johnsburg pursuant to the terms and provisions of the specifications (WC 6-21) and proposal for a term commencing upon execution by both parties and terminating upon completion of the project.
10. To amend the existing agreement with CHA Consulting to include Supplemental Agreement No. 1 for 13th Lake Road (CR 78) Culvert Replacement in the Town of Johnsburg for additional preliminary engineering, right-of-way and construction inspection services for a total amount not to exceed \$114,575 for a term commencing upon execution by both parties and terminating upon completion of the work.

Mr. Hajos indicated agenda Items 9 and 10 referred to the 13th Lake Road Culvert Replacement Project in the Town of Johnsburg, apprising the construction services were currently out to bid and would be awarded to the lowest responsible bidder.

Motion was made by Ms. Hogan, seconded by Mr. Dickinson and carried unanimously to approve Items 9 and 10 as outlined above and the necessary resolutions were authorized for the March 19th Board meeting.

Copies of the resolution request forms are on file with the minutes.

11. To amend the County Budget in the amount of \$1,999.77 to reflect the receipt of insurance recovery payment for guiderail repairs.

Motion was made by Mr. Geraghty , seconded by Mr. Bruno and carried unanimously to approve the request and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

12. To authorize renewal of the Fuel Farm Lease agreements with the Towns of Bolton, Hague, Horicon, Johnsburg and Lake Luzerne for a five year term for a rental sum in the amount of \$1,200 to each of the Towns.

Mr. Hajos advised this pertained to the five year lease agreement the County had with all of the Towns that housed the County's fuel farms.

Motion was made by Mr. Merlino, seconded by Mr. Bruno and carried unanimously to approve the request as outlined above and the necessary resolution was authorized for the March 19th Board meeting. *A copy of the resolution request form is on file with the minutes.*

Moving along to the review of the Solid Waste Agenda, Mr. Hajos apprised he had received four comments back from the NYS DEC (*New York State Department of Environmental Conservation*) regarding the County's Local Solid Waste Management Plan requesting that the Plan further discuss the County's plan for electronics recycling, as well as some minor edits which he was currently in the process of working on and would submit to NYS DEC for approval. He said if the NYS DEC approved the plan he would be bringing forth a request to approve the plan at the next Committee meeting.

Proceeding with the agenda review, Mr. Hajos stated he had brought with him a copy of the proposed job description for the position they had discussed at the last meeting, as well as a proposal for the waste hauler permit application for collection and transportation of solid waste and recyclable materials in Warren County; *Copies of the Solid Waste/Recycling Compliance Coordinator job description and the proposal for the waste hauler permit application were on file with the minutes.* In regard to the job description, he informed he and Patricia Nenninger, *Personnel Officer*, used the information they had compiled by contacting other Counties throughout the State to inquire about the solid waste positions they had withing their Department of Public Works to create the job description for the Solid Waste/Recycling Compliance Coordinator position which he reviewed with the Committee. He added he was awaiting feedback from Jackie Figueroa, *County Human Resources Director*, as to what the appropriate salary would be for the position.

Next, Mr. Hajos apprised Local Law No. 3 of 1991 authorized the County to require and issue permits to solid waste haulers within the County. He stated he had developed a very detailed application process to obtain a waste hauler permit which would allow any of these waste haulers to operate within Warren County. In regard to the fees, he advised the fees he had observed ranged from \$200 to \$500 per truck and if there was more then one truck in the fleet then the fee would be lowered to \$200 or \$175 per truck. He said his thought was to charge a fee of \$200 for the first vehicle and \$100 for each additional vehicle that

operated within Warren County. He informed the permits would require an annual renewal and if by January 15th of the following year the waste hauler had not renewed their permit then they would be charged a \$50 late fee in addition to their annual permitting fee. He apprised he was not seeking approval from the Committee today, but he would like to distribute the information to them for review to determine if there were any questions that may arise from this. He added he would also be submitting a copy to the County Attorney's Office for review to ensure they found it to be acceptable.

A discussion ensued.

Mr. Hajos indicated he would like to bring a request to create the Solid Waste/Recycling Compliance Coordinator position before the Committee next month for approval so that it could potentially be approved at the April 16th Board meeting. He said he felt this would provide him with a sufficient amount of time to finalize the permitting application to be potentially approved at the May 21st Board meeting.

Mr. Conover asked Don Lehman, *Director of Public Affairs*, if there were any public comments and Mr. Lehman replied affirmatively. Mr. Lehman apprised the first comment was from M.B. Mylott who concurred with Ms. Hogan that Mr. Hajos was doing a thoughtful job regarding solid waste. He stated Diane Collins, *member of the Zero Waste Committee*, also commented that the Committee members concurred with Ms. Hogan comments regarding the respect and appreciation of Mr. Hajos. He added Ms. Collins also mentioned *The Post Star* article that was referenced by Mr. Bruno, informing the majority of the comments were about not trusting their efforts to recycle, as the private haulers were not source separating. He stated Ms. Collins also indicated that if consumers threw away less private haulers could lessen accordingly.

Mr. Magowan voiced his disappointment with the comments made by Mr. Conover at the beginning of the meeting, informing while he respected Mr. Conover what he had observed was the disrespect of the entire new Board they were trying to create. He said he believed they had all been trying hard to make all of the changes that were requested by the Chairwoman and reviewing them and he was sorry that Mr. Conover had been unable to attend the training presented by Ms. Kissane and Mrs. Allen which explained the Rules of the Board. He indicated there had been a significant amount of outbursts and anger which appeared to be coming from a certain group of individuals and he was disheartened they were not affording the Chairwoman the three months she had requested to regroup and determine which of the changes made needed to be revisited.

There being no further business to come before the Committee, on motion made by Mr. Geraghty, seconded by Mr. Bruno and carried unanimously, Mr. Conover adjourned the meeting at 10:55 a.m.

Respectfully submitted,
Sarah McLenithan, Deputy Clerk of the Board