

Warren County Board of Supervisors

BOARD MEETING
THURSDAY, May 5, 2022



Note: Pursuant to New York State Legislation (S.50001/A.40001): “Notwithstanding the provisions of article 7 of the public officers law to the contrary, any state agency, department, corporation, office, authority, board, or commission, as well as any local public body, or public corporation as defined in section 66 of the general construction law, or political subdivisions as defined in section 100 of the general municipal law, or a committee or subcommittee or other similar body of such entity, shall be authorized to meet and take such action authorized by law without permitting in public in-person access to meetings and authorize 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 Board members in attendance were physically present.

Please note that the following is a summarization of the Board Meeting; the meeting, in its entirety, can be viewed on the Warren County website: <https://warrencountyny.gov/mma>

The Board of Supervisors of the County of Warren convened at the Supervisors' Room in the Warren County Municipal Center, Lake George, New York; meeting called to order at 1:27 p.m.

Mr. Kevin B. Geraghty presiding.

Chairman Geraghty requested a moment of silence in recognition of former Lake George Town Supervisor Louis Tessier who had recently passed away immediately following the pledge of allegiance.

Salute to the flag was led by Supervisor Driscoll.

Chairman Geraghty spoke regarding Mr. Tessier and how he would be missed by County employees, his community and his family.

Roll called, the following members present:

Supervisors Conover, Leggett, Diamond, McDevitt, Bruno, Driscoll, Geraci, Merlino, Wild, Magowan, Seeber, Beaty, Thomas, Runyon and Geraghty - 15; Absent - 5 Supervisors Braymer, Frasier, Hogan, Dickinson and Strough. All Supervisors in attendance were physically present.

Motion was made by Supervisor Bruno, seconded by Supervisor Merlino and carried by a unanimous vote of those present to approve the minutes of the April 14, 2022 Board Meeting, subject to correction by the Clerk of the Board.

Chairman Geraghty offered privilege of the floor, but there was no one wishing to speak.

Supervisor Hogan joined the meeting remotely at 1:30 p.m.

Chairman Geraghty advised he would be postponing the Report by the Chairman until the May 20th Board Meeting; however, he noted, he had attended the Crime Victims' Ceremony in front of the County Municipal Center building which he was impressed with. He mentioned a few more bricks would be

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added to the memorial which he recognized Supervisor Seeber for being instrumental this process.

Report by Committee Chairs were given, during which Chairman Geraghty provided every Supervisor with the opportunity to speak regardless of whether they Chaired a Committee.

Report by the County Administrator was given.

Report by the County Attorney was given during which Larry Elmen, *County Attorney*, spoke regarding the changes to the Open Meetings Law which he had provided every member of the Board a legal opinion on that attempted to summarize what the amendments were. He stated the next part of this pertained to what, if any actions did the Board to seek to take moving forward to permit members to appear remotely. He indicated the newly enacted Open Meetings Law reflected what existed prior to the pandemic when remote participation was authorized through executive order during the State of Emergency in New York State. He advised an additional statute had been added to the Open Meetings Law which was the one that addressed remote participation by members of a public body. He added the new statute did not address or provide guidance and restrictions otherwise on the public's ability to observe and watch proceedings of the Board of Supervisors. He stated the issue that was before the Board was what, if any action, did this Board want to take regarding the ability for members to appear remotely and under Section 103(a) which he referred to as the exceptional circumstances statute that specifically addressed the requirement for a municipality to enact written procedures by a Local Law when it was applicable to counties for when and how extraordinary circumstances would be determined for individual Supervisors. He noted there were a number of other specific requirements that were included in the extraordinary circumstances statute which was newly enacted; however, he indicated, the first question pertained to what, if any action, did the Board want to take regarding remote attendance by members of the Board, adding the County was not required to take any action. He apprised despite this matter involving attorney/client communications he could not foresee any reason for requesting an executive session to discuss what methodology, steps or requirements the County would like to take concerning remote attendance by members. He said he would defer to the Chair of the Board as to how the discussion should proceed on the matter, adding the current ability to appear remotely would terminate on June 8, 2022 if there was no Local Law enacted before then which would result in requiring all appearances to be in person. He mentioned a Local Law could be enacted after June 8th to permit remote appearances; however, he stated, through any interim period the only acceptable way to attend and participate would be through physical presence.

Chairman Geraghty questioned whether the Board would like additional time to ponder this matter and make a final determination at the May 20th Board Meeting or would they be more comfortable making a decision today; Supervisors Diamond replied he would like additional time before he rendered a decision. Supervisor Braymer suggested they refer the matter to the Legislative, Rules and Governmental Operations Committee for further discussion. Chairman Geraghty apprised he would work with the Chair of the Legislative, Rules & Governmental Operations Committee to schedule a meeting; however, he said, he believed they should make a decision on how to proceed on this matter at the May 20th Board Meeting. A discussion ensued during which Mr. Elmen indicated during any proceedings potentially of the Board and Committees, as well as the LDC (*Local Development Corporation*) or other commissions and bodies of the County that the Local Law would cover and there were extraordinary circumstances that existed and any one member was using that ability to appear remotely the rights of the public were altered in the manner in which the public can participate in the proceedings. He advised he believed they needed to have a broader discussion regarding the manner in which Supervisors had been participating remotely in the proceedings, as there were a few little quirks that he would not go into detail on that were identified in the statute, and in particular with executive session, where the ability to participate in executive session may be greater than in open session because of a potential defect or omission from the statute that did not make these rules apply

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that applied to the open portion of the meeting to the executive portion of the meeting. Further discussion ensued following which Chairman Geraghty advised the matter would be forwarded on to the Legislative, Rules & Governmental Operations Committee for further discussion and then on to the full Board at their May 20th Board Meeting.

Mr. Elmen continued on with the Report by the County Attorney which included the draft opinion he circulated to the Board regarding the Employee of the Month Program that he believed they should discuss at a future meeting because it was a complicated subject and should involve the County Treasurer, as well as pending litigation matters against the County involving the Child Victim Act which the Board opted to delay discussing in executive session until the May 20th Board Meeting.

Reading of communications by Clerk of the Board was provided, as follows:

Reports from:

1. Warren County Probation Department - Monthly Reports for Criminal and Family Workloads for the month of February 2022 (*emailed to Board 05/04/22*)
2. Warren County LDC - 2021 Report of Accomplishments and Projects
3. Warren County EDC - 2021 Report of Accomplishments and Projects

Minutes from:

1. Warren County Jury Board - April 14, 2022 Annual Meeting minutes

Letters/emails from:

1. FitzGerald Morris Baker Firth - NYS Form RP-412-a Application for Real Property Tax Exemption - Warren-Washington IDA - 407 Big Bay Road, LLC, Town of Queensbury
2. FitzGerald Morris Baker Firth - Notice of Public Hearing - Sun Valley Apartments, LLC
3. Warren County Board of Ethics - Standing Rules and Procedures for the Warren County Board of Ethics
4. Forest Fire Lookout Association - Gore Mountain Fire Tower
5. Town of Lake Luzerne Zoning Board of Appeals - Notice of Public Hearing - Area Variance 2022AV-2
6. Warren County Board of Ethics - Advisory Opinion #2022-2, dated April 27, 2022

Reading of resolutions by the Clerk of the Board was announced as follows:

Amanda Allen, *Clerk of the Board*, announced Resolution No. 189 (*tabled from the April 14th Board meeting to the May 5th Board meeting*) as well as three Proclamations were distributed to the Board and posted to the Warren County website on May 4, 2022. The Proclamations are:

PR22 - Condolences and Appreciation for Louis E. Tessier

PR23 - National Nurses Week

PR24 - Foster Care Awareness Month

Mrs. Allen indicated there were four resolutions approved at Committee meetings held this morning each of which required a waiving of the Rules, the first of which was proposed Floor Resolution No. 1 involving a waiving of the Rules of the Board to allow proposed Resolution No. 207, *Amending Table of Organization and Warren County Salary and Compensation Plan for 2022 to Adjust the Salary of the Public Defender Position*, to be brought to the floor. The necessary motion was made by Supervisor Conover, seconded by Supervisor Magowan and carried by majority vote of those present, with Supervisor Beaty voting in opposition. Mrs. Allen announced proposed Floor Resolution No. 1 would now be referred to as proposed Resolution No. 206.

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Next, Mrs. Allen apprised a waiving of the Rules was required in regard to proposed Floor Resolution No. 2 to bring proposed Resolution No. 209, *Appointing Warren County Public Defender*, to the floor. The necessary motion was made by Supervisor Conover, seconded by Supervisor Bruno and carried by a unanimous vote of those present. Mrs. Allen informed proposed Floor Resolution No. 2 would now be referred to as proposed Resolution No. 208.

In regard to proposed Floor Resolution No. 3, Mrs. Allen stated a waiving of the Rules was required to bring proposed Resolution No. 211, *Authorizing the Appropriation of Funds from the Occupancy Tax Reserve to the Tourism Budget; Amending 2022 Warren County Budget*, to the floor. The necessary motion was made by Supervisor Driscoll, seconded by Supervisor Thomas and carried by a unanimous vote of those present. Mrs. Allen advised proposed Floor Resolution No. 3 would now be referred to as proposed Resolution No. 210.

Finally, Mrs. Allen advised in regard to proposed Floor Resolution No. 4 a waiving of the Rules was necessary to bring proposed Floor Resolution No. 213, *Increasing Capital Project No. H390, County Bridge & Culvert Projects; Authorizing Transfer of Funds; and Amending Warren County Budget for 2022*, to the floor. The required motion was made by Supervisor Bruno, seconded by Supervisor Thomas and carried by a unanimous vote of those present. Mrs. Allen announced proposed Floor Resolution No. 4 would now be referred to as proposed Resolution No. 212.

Discussion on resolutions ensued, as follows:

Supervisor Conover stated he believed it was appropriate for proposed Resolution No. 189, *Authorizing a 6 Month Pilot Program to Allow Class 1 and Class 2 Electric Bike/e-scooter Usage on the Warren County Bikeway*, to remain tabled given the information Supervisor Strough had distributed to the Board relative to municipal action that was required by the individual towns the Warren County Bikeway passed through which he asked Mr. Elmen to elaborate on.

Mr. Elmen apprised the enabling legislation from the State provided the ability for cities, towns and villages to take action to enable electric bikes/scooters; however, he noted, there was no language included in the enabling statute that authorized counties to take any action to regulate the use of electronic bikes/scooters. He stated the justification to table Resolution No. 189 was to allow for further research into the legislation which also provided the State the ability to regulate electronic bikes/scooters. He said his Office would be working on determining whether it was necessary to defer to the local municipalities the Warren County Bikeway passed through to verify what, if any action, they were prepared to take regarding the use of electronic bikes/scooters in their municipality.

A discussion ensued during which Supervisors Braymer and Diamond exited the meeting at 2:00 p.m. and Supervisors Seeber and Merlino exited at 2:01 p.m. Supervisor Hogan also exited the meeting during the discussion.

Motion was made by Supervisor Beaty, seconded by Supervisor Conover and carried by a unanimous vote of those present to withdraw Resolution No. 189, *Authorizing a 6 Month Pilot Program to Allow Class 1 and Class 2 Electric Bike/e-scooter Usage on the Warren County Bikeway*. Chairman Geraghty requested that the County Attorney's Office write a letter to each impacted community notifying them of the County's stance on the matter.

Voting on resolutions occurred; Resolution Nos. 206-213 were approved as presented. Please note Resolution No. 189 which was tabled until the May 5th Board Meeting was withdrawn.

Chairman Geraghty offered privilege of the floor and the following spoke:

Supervisor Beaty questioned whether a quorum of the Board was determined by the weighted vote

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or by the number of Supervisors present at the meeting and Mrs. Allen replied a quorum was determined by the weighted vote, adding in order to make a quorum of the Board the majority vote of 502 must be present.

Supervisor Geraci spoke regarding grant opportunities relating to invasive species eradication for water bodies in the Adirondacks and how he believed the Economic Growth & Development Committee should discuss a more consolidated approach on an on-going basis where the County's Planning & Community Development Department could serve as a point of contact for all of the municipalities with eligible water bodies rather than having them all compete for the same pool of money.

A brief discussion ensued during which Supervisor Bruno exited the meeting at 2:09 p.m. Following the discussion Supervisor Wild, as Chair of the Economic Growth & Development Committee, agreed to discuss this matter further with the Committee.

There being no further business to come before the Board of Supervisors, on motion made by Supervisor Geraci, seconded by Supervisor Magowan and carried by a unanimous vote of those present, Chairman Geraghty adjourned the Board Meeting at 2:10 p.m.