

## WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: OCCUPANCY TAX COORDINATION

DATE: JANUARY 31, 2013

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS KENNY  
MERLINO  
BENTLEY  
CONOVER  
DICKINSON  
FRASIER  
MASON

**OTHERS PRESENT:**

MICHAEL SWAN, TREASURER  
KATE JOHNSON, DIRECTOR OF TOURISM  
LEISA GRANT, PRINCIPAL ACCOUNT CLERK, TOURISM  
MARTIN AUFFREDOU, COUNTY ATTORNEY  
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ADMINISTRATOR  
FRANK THOMAS, BUDGET OFFICER  
JOAN SADY, CLERK OF THE BOARD  
SUPERVISORS STRAINER  
WESTCOTT  
DAVID BULMER, ALPINE MARKETING COMMUNICATIONS  
LUISA CRAIG-SHERMAN, LAST OF THE MOHICANS OUTDOOR DRAMA  
FRED AUSTIN, FORT WILLIAM HENRY  
CHRISTINA CURLEY, LAKE GEORGE REGIONAL CHAMBER OF COMMERCE  
MIKE SPILLMAN, HOLIDAY INN  
DON LEHMAN, *THE POST STAR*  
JOANNE COLLINS, LEGISLATIVE OFFICE SPECIALIST

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Mr. Kenny called the meeting of the Occupancy Tax Coordination Committee to order at 11:28 a.m.

Motion was made by Mr. Conover, seconded by Mrs. Frasier and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Mike Swan, County Treasurer, who reported that occupancy tax revenues had increased by 7.3% from December 31, 2011 to December 31, 2012. He said final figures would be available in approximately six weeks. Mr. Swan stated he questioned the sporadic nature of the figures and after studying same he determined that the variances were due to the varied reporting cycles. He said his goal for 2013 was to develop a uniform quarterly reporting system.

Mr. Kenny advised the first agenda item called for discussion pertaining to funding for a feasibility Study regarding gambling in Warren County. A short discussion ensued and Mr. Kenny stated that Reserve Funds were available for the study and the matter would be discussed further at a future meeting when more detailed information was available.

Privilege of the floor was extended to Luisa Craige-Sherman, representing the Last of the Mohicans Outdoor Drama, who noted the volunteer based program had formed in 2004, and a feasibility study had indicated significant potential as a seasonal attraction. She said changes in the economy had effected the small not-for-profit event, and the need for year-long volunteer commitments which included fund-raising and set work, as well as four performances per week, had placed a strain on the organization. In terms of finances, Ms. Craige-Sherman said the program started out with a shorter season of six nights at the Fort William Henry which created an attendance rush. The short duration, she explained, created a sense of urgency for guests to obtain tickets, which has not sustained in the most recent years with the longer programming duration. She said sixteen shows in four weeks required a tremendous effort and she was appreciative of the assistance received from

the Wild West Ranch and others. She noted that the cost of recruiting cast members, marketing and equipment rental, was enormous for the small Board of Directors, and programming had become daunting. Therefore; she said, she would like to propose the program be reduced to six shows in a two week period in late July and early August.

Mr. Kenny advised the original occupancy tax event funding awarded was \$16,500. Mr. Merlino said he felt the program crew had worked hard and done an excellent job and he supported the original award in the amount of \$16,500 for 2013 programming year.

It was the consensus of the Committee that the performance schedule for the Last of the Mohicans 2013 Outdoor Drama be amended as outlined, with no change in the 2013 Occupancy Tax award of \$16,500.

Privilege of the floor was extended to David Bulmer, Alpine Marketing Communications, who informed that the Centurion Cycling event leaders based in Ontario, Canada had decided to limit events to Canada; thereby withdrawing commitments in the United States. He said the decision was not a reflection on the region but was part of an effort to scale back their event planning. Mr. Bulmer expressed the need to maintain and grow the cycling event, which was an asset to the region. He stated that he and Michael Consuelo, Lake George Regional Chamber of Commerce (LGRCC), had sought parties interested in running the event and two responses were received which included Medalist Sports, who had run several large national events; and Travel Destinations (Tim Holland and Chris Flanagan), who were the Race Directors for Centurion. In terms of scheduling, he noted that June and July were not ideal months with existing high traffic and minimal time for preparation and training for cyclists and he proposed the weekend of September 27 - 29, 2013 for the annual cycling event. Previous occupancy tax awards, he advised, for 2012 and 2013 had not been fully expended and he asked permission to return to the Committee with the completed application from Travel Destinations who would request comparable funding.

Mr. Kenny advised he had sent an email to Mr. Consuelo expressing his disappointment in the withdrawal, especially after considerable time and consideration was given to their request by the Occupancy Tax Coordination Committee, with the promise of attendance and growth. Mr. Bulmer stated he had spoken to cycling clubs and anticipated similar growth moving forward and informed that several new charity groups had expressed interest in participation. Messrs. Mason and Bentley expressed their support and optimism for the scheduling change to late September.

Mr. Kenny stated the next agenda item pertained to consideration of an Occupancy Tax Citizens Advisory Committee and questioned if the request actually pertained to the reinstatement of the Tourism Promotion Citizens Advisory Committee (TPCAC). Mr. Mason explained he had met with the LGRCC whose Board had expressed interest in creating a platform for local businesses/business leaders. After studying the local laws as they pertain to the formation of advisory committees, Mr. Mason acknowledged the complexity of the process. Mr. Kenny reported that the former TPCAC, which formed in January 2004, had twenty-one members, with an average attendance of two members, and the highest attendance of eight which occurred at one meeting in 2005. Mr. Kenny informed that Mr. Consuelo asked him to revisit the idea of a TPCAC. Mr. Dickinson suggested the LGRCC consider forming an advisory committee where they could review occupancy tax funding applications and make recommendations to this Committee. Mr. Kenny noted that Committee meetings were public meetings and all interested parties were invited to attend. Mrs. Frasier asked if there was a specific concern and Mr. Mason stated that their Boards specific concern related to

the Occupancy Tax Reserve Funds to fund the Asian Clam efforts. As a member of the LGRCC, Mr. Mason said he felt he should bring their interest to the Committee and to the Board, noting that he voted in favor of the Asian Clam eradication efforts.

In summary, Mr. Mason declared the business community has requested a stronger voice in the form of an advisory committee, which may effect the decisions made by the Board of Supervisors for matters relating to tourism and occupancy tax funding issues. Mr. Kenny stated he would invite LGRCC members to attend the next meeting of the Occupancy Tax Coordination Committee and he noted the full Board made the final decisions regarding the use of funds.

A short discussion ensued.

Mr. Westcott expressed his support for the formation of an advisory committee to hear outside points of view. He said daytime meetings are often prohibitive for the business population and he suggested morning or evening meetings.

Speaking as a private business owner, Ms. Craige-Sherman noted the tremendous growth and development of the Tourism and Occupancy Tax Departments/Committees over the years. She recognized the need for informal "think tank" meetings on a quarterly basis to include business owners and leaders and noted that occupancy tax collections made Tourism possible. She recalled such meetings in the past which were filled to capacity and could benefit from the conducive nature of the new Committee Room. She pointed out the intrinsic link between local business owners and Warren County Departments/Committees.

It was consensus of the Committee that no action be taken at this time relative to the formation of an advisory committee.

Continuing with the agenda review, Mr. Kenny addressed the collection of occupancy taxes as it related to on-line travel agencies, such as Expedia. He said his research revealed that between 55 and 81 Warren County establishments participated in on-line bookings, where re-marketers purchased rooms from hotels to re-sell to guests at a slightly higher rate. The issue, he said, was due to the fact that the re-marketers paid occupancy tax on their purchase price, and therefore, he said, the County had not collected tax on the difference. He explained that Saratoga County passed a local law in October 2012 with the threat of litigation from trade groups representing on-line bookers and noted litigation had not ensued. He suggested the Committee consider a local law in Warren County to address occupancy tax collections for re-marketers in like manner.

A discussion ensued.

Responding to an inquiry from Mr. Dickinson, Mr. Swan stated that room figures were not yet available from Saratoga County; however, he said, the estimated non-taxed amount in question was estimated to be between \$55,000 and \$75,000.

Martin Auffredou, County Attorney, explained that in 2010 New York State (NYS) amended the Tax Law, to allow the collection of consumption use taxes from marketers. Consequently, he said, Saratoga County had taken the position that the amendment could be applied to the Occupancy Tax Law of Saratoga County. The County, he said, had the authority to impose occupancy taxes within the NYS Tax Law, and Saratoga County had identified this source of uncollected tax revenue. Mr. Auffredou further explained that incorporating the State's definitions into a local law, created an

edict for re-marketers to pay occupancy tax on the difference between the wholesale and retail price paid for the rooms. He stated the County Treasurer was responsible for the collection of taxes from re-marketers and if the Board pursued action, the local law would include the notification procedure, payment deadlines and enforcement procedures.

Privilege of the floor was extended to Mike Spillman, General Manager of the Holiday Inn - Lake George, who said that hoteliers were not obligated to sell rooms to re-marketers who would purchase rooms at the lowest rate, and disguise themselves as a hotel to consumers. He noted that marketers had access to hotel room inventories, and they paid occupancy tax on the wholesale price at the time of purchase.

Motion was made by Mr. Mason, seconded by Mr. Bentley and carried unanimously to authorize a local law amending Local Law No. 13 of 2011 to incorporate New York State Tax Law changes that address occupancy tax paid by re-marketer organizations, and the necessary resolution was authorized for the February 15, 2013 Board meeting. *A copy of the resolution request form is on file with the minutes. (Note: Subsequent to the meeting it was determined that the County Attorney would prepare a draft local law to be presented and reviewed by the Occupancy Tax Coordination Committee at their next meeting.)*

Mr. Kenny advised the pending item to review the rules for use of occupancy tax funds would be carried forward.

As there was no further business to come before the Occupancy Tax Coordination Committee, on motion made by Mr. Bentley and seconded by Mrs. Frasier, Mr. Kenny adjourned the meeting at 12:14 p.m.

Respectfully submitted,

Joanne Collins, Legislative Office Specialist