

**WARREN COUNTY BOARD OF SUPERVISORS**

**COMMITTEE: SUPPORT SERVICES**

**DATE: JANUARY 28, 2015**

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**COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:**

SUPERVISORS VANSELOW  
MCDEVITT  
TAYLOR  
FRASIER  
WOOD  
BROCK  
SEEBER

MARTIN AUFFREDOU, COUNTY ATTORNEY  
JOAN SADY, CLERK OF THE BOARD  
MIKE COLVIN, DIRECTOR OF INFORMATION TECHNOLOGY  
PAUL DUSEK, COUNTY ADMINISTRATOR  
FRANK E. THOMAS, BUDGET OFFICER  
SUPERVISORS BEATY  
STROUGH  
PAM VOGEL, COUNTY CLERK  
MARK FROST, *THE CHRONICLE*  
DON LEHMAN, *THE POST STAR*  
THOM RANDALL, *THE ADIRONDACK JOURNAL*  
SAMANTHA HOGAN, ASSISTANT SECRETARY TO THE CLERK OF THE BOARD

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Mr. Vanselow called the meeting of the Support Services Committee to order at 9:30 a.m.

Motion was made by Mrs. Frasier, seconded by Ms. Wood and carried unanimously to approve the minutes of the previous Support Services Committee Meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Mike Colvin, Director of Information Technology, who distributed copies of his agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review, Mr. Colvin presented a request to appropriate funds in the amount of \$60,000 from Budget Code A895.00 (Computer Reserve) to Budget Code A.1680 220.1 (Information Technology Office Equipment Reserve), to purchase computers, software and related equipment.

Motion was made by Mrs. Frasier, seconded by Mr. Taylor 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.

Mr. Brock asked what was being done with the old computers and Mr. Colvin responded that working computers were transferred to the Purchasing Department for sale.

Next, Mr. Colvin presented a request to attend the New York State Local Government Information Technology Directors Conference on 5/12 - 5/15/2015 at the Saratoga Hilton in Saratoga Springs, NY, using a County Vehicle.

Motion was made by Ms. Wood, seconded by Mrs. Frasier and carried unanimously to approve the travel request. *A copy of the Authorization to Attend Meeting or Convention form is on file with the minutes.*

Ms. Seeber inquired whether the Board meetings could be recorded and uploaded to YouTube, similar to the Committee meetings; she noted that a few of the meetings had been televised, but said that not every County resident had cable access to view them. She indicated she was interested in knowing the cost and how difficult an undertaking it would be to set up the Board Room to record meetings. Mr. Colvin responded that in order to record meetings, the Board Room would need to be set up with the same equipment used in the Committee Room, with the exception of a camera with a wide angle lens to try and capture a majority of the Board Room. He noted that the cost could

be reduced if they were able to find a way to run the Digital Video Recorder (DVR) remotely from the Committee Room; he added that if this were possible, the only cost would be for the purchase of the camera which he estimated would be about \$500.

Ms. Wood agreed that recording the Board meetings and uploading them to YouTube was a great idea, especially for anyone who missed a Board meeting or would like to review one.

Mr. Taylor asked if the IT Department was keeping track of how often the Committee meetings were actually being viewed and Mr. Colvin advised he would gather this information and report back at the next Support Services Committee meeting.

Privilege of the floor was extended to Mr. Beaty who noted that Look TV, *who had recently been recording Board meetings*, was supported by private funding; Mr. Beaty advised that he and Mr. Westcott were constantly seeking private funding to televise the Board meetings, but said he was supportive of efforts to post the Board meetings to YouTube.

Privilege of the floor was extended to Joan Sady, Clerk of the Board, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Mrs. Sady presented a request to amend Resolution No. 257 of 2014, Approving the Standard Work Day and Time Reporting, to include updates. Mrs. Sady noted this resolution was for retirement reporting purposes and included changes in several appointed officials over the past several months.

Motion was made by Mr. McDevitt, seconded by Mr. Taylor and carried unanimously to approve the request as presented and the necessary resolution was authorized for the February 20<sup>th</sup> Board Meeting. *A copy of the resolution request is on file with the minutes.*

Privilege of the floor was extended to Martin Auffredou, County Attorney, who advised he had been reviewing County Law Section 214, regarding designation of official newspapers and the history of designations made. He indicated that he had been approached by Mark Frost, of *The Chronicle*, about the possibility of changing one of the County's newspaper designations to include *The Chronicle*, following which he and Mrs. Sady had met with Mr. Frost to discuss the matter further; Mr. Auffredou added that this topic was briefly discussed at the January 5<sup>th</sup> Organization Meeting.

Mr. Auffredou read the following from County Law Section 214 regarding the designation of newspapers and official publications: "*The Board of Supervisors shall annually designate at least two (2) newspapers, published within the County as official newspapers for the publication of all local laws, notices and other matters required by law to be published*". With regards to what designated a publication as a "newspaper", Mr. Auffredou read the definition provided in Section 60 of the General Construction Law of the State of New York, as follows: "*In any case which a notice of any fact is required by law to be published or advertised in a newspaper, the term newspaper shall mean a paper of general circulation which is printed and distributed ordinarily not less frequently than once a week and has been so for at least one year immediately preceding such publication or advertisement and which contains news, articles of opinion, has editorials, features, advertising or other matter regarded as current interest, and has a paid circulation and (except for such newspapers that had been printed and distributed not less frequently than once a week for a period of ten years prior to January 1, 1975) has been entered in the United States Post Office as a second class matter*". Mr. Auffredou noted that the portion of this definition which required the publication to have a "paid circulation" was important fact to keep in mind. Mr. Auffredou pointed out that *The Post Star* met all of

the criteria noted in the Law and for many years had been designated as one of the Official Newspapers for Warren County. He clarified that currently, *The Post Star* and *The North Creek News Enterprise*, now known as the *News Enterprise*, served as the County's Official Newspapers.

Mr. Auffredou noted that Warren County had a history of designating both *The Post Star* and the *News Enterprise* as the official newspapers, adding that the prior County Attorney had noted such in 1990. He added that from 1991 to 1996, *The Warrensburg Lake George News* was also designated; he commented that the Law required at least two newspaper designations, but they could choose to designate more. He added that in the 1930's and 1940's, *The Post Star* and *The Glens Falls Daily Times* were the designated papers, and in 1939 *The Warrensburg News* was designated.

Mr. Auffredou stated the question at hand was whether the *News Enterprise* met the criteria of a newspaper in the General Construction Law Section 60 for the County's purposes. He said he had found an exception to the definition indicating "notwithstanding any provision of this subdivision of the contrary", which he explained meant paid circulation among all the other criteria; he also noted a provision indicating that "a publication which was designated and publishing notice as an official newspaper prior to the year 1940 and continued to be so designated and publishing for at least 30 years after such year shall be deemed to be a newspaper within the meaning of this subdivision". Mr. Auffredou clarified that if a newspaper met the criteria, it did not matter whether it had a paid circulation. He noted that the State Comptroller's Office had opined that a desired publication did not have to be the designated newspaper of the County for those 30 years and it could have been the designated newspaper of another municipality. He explained that in this instance, the Town of Johnsburg had designated *The North Creek News Enterprise* for many years, from 1940 to 1970. Mr. Auffredou informed there was correspondence available to confirm this designation for all of the years from 1940 through 1970, with the exception of the years 1941 and 1960; he added that although they were unable to locate correspondence stating the designation, they were able to find affidavits which showed evidence that publications had been placed in *The North Creek News Enterprise* in both of these years.

Mr. Auffredou informed the Committee of another complication in regards to *The North Creek News Enterprise*, explaining that in 2006, County records reflected an amendment to the resolution that initially designated *The North Creek News Enterprise* as one of the County's Official Newspapers because the newspaper had ceased publishing for a period of time. He noted that during this time frame, *The Saratogian* had been used as a publication source. Pam Vogel, County Clerk, confirmed that her Office had used *The Saratogian* as a source of publication for LLC (Limited Liability Corporation) notifications, but said she was not sure if anything else was published in that newspaper. Mr. Auffredou stated he was unclear as to what was done with the other designated paper of the County, but pointed out that the designating resolution was initially rescinded, and later in 2006 another resolution was approved re-designating *The North Creek News Enterprise* as one of the County's Official Newspapers, leaving a gap where there were no designations.

Mr. Auffredou explained that the intent of the Law, which he believed to be to attain the widest broadcast circulation possible, could not be argued, but there was an exception implied throughout the years which could continue to be applied. Mr. Auffredou stated that he would like to reach out to Denton Publications to obtain their history of being designated as one of the County's Official Newspapers, and to get more information on the period of the time when *The North Creek News Enterprise* had briefly stopped publication, as he believed there to be some information missing during that time frame. Mr. Auffredou said he was not suggesting that any decision be made at this time and the purpose of his update was to inform the Committee about the information that he had gathered on the history of designations and the requirements of the Law. He stated that if the Committee decided to proceed in another direction with their designations in the future, they could only do so if the desired publication met the criteria stated

in the Law. He clarified that in his view, the only newspaper that met all the guidelines of the New York State General Construction Law was *The Post Star*; however, he added, *The North Creek News Enterprise* may qualify based on the exceptions allowed under the Law.

Mr. Vanselow asked Mr. Auffredou to clarify the meaning of the word “publish” as it pertained to the law. Mr. Auffredou explained that he did not believe the paper had to be printed in Warren County, but opined that the primary readership needed to be within the County. He reiterated that the primary intent of the Law was to ensure the designated publications were able to reach the largest portion of Warren County’s population.

Mr. Taylor questioned if it was necessary to publish all public notices in the Official Newspapers designated by Warren County and Mr. Auffredou answered that while it would likely depend on the nature of the notice, generally speaking the answer would be yes. Mr. Auffredou added that the Tax Foreclosure Notices published each year by the County Attorney’s Office were placed in both *The Post Star* and the *New Enterprise*. He affirmed that County Law 214 and the Real Property Tax Law stated that the County Attorney was required to publish them in one of Warren County’s officially designated newspapers; however, he noted, Warren County had taken the position of publishing them in both of the designated newspapers.

Mr. Taylor asked whether *The Chronicle* had been in business for the required 30 years and Mark Frost, of *The Chronicle*, answered that it had been in business for 35 years. Mr. Taylor asked why *The Chronicle* did not qualify as a designated newspaper and Mr. Auffredou replied that it was not a paid subscription paper and he did not believe that they met the exception of being a designated publication for another municipality, as *The North Creek News Enterprise* had been from 1940-1970.

Mr. Vanselow informed that when he returned to his Johnsbury Office that afternoon he would review the minutes from 1941 to see if he could find anything that would suggest *The North Creek News Enterprise* had been designated as an official newspaper for that year.

Privilege of the floor was extended to Mrs. Vogel who shared the County Clerk’s responsibilities under the Law as it pertained to publishing LLC’s and the designation of newspapers. She explained that in the past they generally used two newspapers, but in 2006 the Law was amended to state a daily and weekly newspaper could be used. Mrs. Vogel stated that these public notices were viewed as judicial advisements to provide the public with a list of newspapers to publish their LLC formation in; she noted that this was a designation the County Clerk made, at no expense to the Department, to provide public guidance. Mrs. Vogel continued that in 2006 *The North Creek News Enterprise* had faced some hardship, causing them to close for a time, which had required her to find another newspaper to designate which met the specified requirements. Mrs. Vogel explained that in 2013 she was faced with these same questions and looked to the State; she indicated that the response received from the State was not entirely helpful, but she followed their advice to leave the decision on which publication to use for LLC notifications up to the consumer. Mrs. Vogel concluded that she felt that the laws on this matter were conflicting and possibly outdated.

Mr. McDevitt stated that if the County’s objective was to reach as many people as possible it would seem that *The Chronicle*’s circulation of 29,000 would be a good way to get the information out to the public and he asked Mr. Auffredou if the only issue with *The Chronicle* meeting the criteria was the paid circulation requirement. Mr. Auffredou responded that there were a couple of issues, paid circulation being one, but stated that he felt the question the Committee needed to answer was whether or not the *News Enterprise* clearly continued to meet the exception, and if it did, could the newspaper be designated. He commented that the Board could choose to designate *The Post Star* as the Official Newspaper, indicating that “the following not designated periodicals could also be used”, but stated that as it was written, the Law did not allow for the designation of a newspaper not meeting the specified

criteria. Mr. Auffredou continued this did not mean there wasn't a way to negotiate around the Law, but reiterated that under the Law as it was written, the County had an obligation to designate a newspaper meeting the criteria identified; otherwise, he stated, public funds would be utilized for publications in periodicals not authorized by Law, causing a fundamental problem. Mr. Auffredou stated that the main problem faced was whether or not the *News Enterprise* met the criteria of the exception. He noted that he needed more time to review this aspect before a decision could be made. Mr. Auffredou commented that he had discussed this issue with representatives at the State level and he believed they were aware that the current Law was archaic and did not represent what the current consumer used to access their news. In contemplating the type of newspaper *The Chronicle* represented, Mr. Auffredou indicated that while it had a broad circulation, it was not a paid circulation and there were other periodicals in Warren County that offered similarly broad circulations. Mr. Auffredou stated he did not believe solving this issue would be as easy as indicating that the County would be in favor of designating another Official Newspaper in place of the *News Enterprise*, because a newspaper could not be designated if it did not meet the statutory criteria.

Mr. Taylor noted that a majority of newspapers offered an internet presence and the County should begin advertising on the internet as well; he added that this would meet the spirit of the Law in reaching the broadest distribution.

Mr. Auffredou stated that this would ultimately be a policy call by the Board of Supervisors. He stated that it was his responsibility to lay out the requirements of the Law, as well as the history and possible issues that could be encountered. He stated he foresaw possible issues occurring if the County moved to designate a publication as an Official Newspaper which did not meet the criteria of the Law and they expended public funds to publish in that newspaper.

Ms. Seeber asked if there was a way to contact the State regarding Section 60 and the exception to explain the unique circumstances in Warren County. She added that if the *News Enterprise* did not qualify under the exception, where would that leave the County under the terms of the Law and in the spirit of reaching the broadest audience. Mr. Auffredou responded that if this were the case, the Law stated that a newspaper in a neighboring county could be used; however, he said, he felt it would be a complete waste of money to use a neighboring county's newspaper. If no other Warren County publication met the specified criteria, Mr. Auffredou indicated the best option may be to just choose one and use it; although they would not be meeting the criteria of the Law, he added, they would be operating under the spirit of the Law which was to reach as many people as possible. Mr. Auffredou advised that he believed the Attorneys at the State level agreed that the Law was out of date and required revision. Ms. Seeber questioned whether a letter from the Board of Supervisors suggesting that action be taken to revise the Law would be helpful and Mr. Auffredou responded that he felt this was a wonderful idea, but added that because he believed there was strength in numbers, this matter would be best addressed through NYSAC (New York State Association of Counties). Mr. Auffredou agreed with Mr. Taylor's prior comments that the means by which people received their news had changed since the Law was written, as most used the internet, and the Law and its statutes should be updated accordingly.

In response to a question posed by Ms. Seeber as to how best to forward this item to NYSAC, Paul Dusek, County Administrator, stated the best solution would be to refer the matter to the Legislative & Rules Committee for action to relay a message to the appropriate contacts at NYSAC, as well as the New York State Assembly and the Senate.

Privilege of the floor was extended to Mr. Frost who explained what prompted his meeting with Mr. Auffredou was the fact that *The Chronicle* was widely distributed, more so than *The News Enterprise*, and better fit the County's goal of disseminating information so that the public would be aware of what was happening in the legal and legislative vein of the County. He stated he was aware that there were certain Laws involved which had to be

followed and he noted that the *News Enterprise* was also a free circulation. Mr. Frost noted that earlier in the meeting the Committee had discussed recording Board meetings and posting them on YouTube in an effort to reach a broader audience and he noted that such abilities were not available in 1940 to 1970 because YouTube had not existed. He stated that *The Chronicle* was an established periodical that had been in publication for 35 years and they had no plans to stop publishing. Mr. Frost said he would love to see Warren County make an effort to fight for the outdated Law to be revised to become more practical; he added this was a very important issue for *The Chronicle*, which was a business located in Warren County and operated by Warren County residents.

Mr. Vanselow asked Mr. Frost if *The Chronicle* was a member of a weekly association and Mr. Frost answered in the negative, noting that there were many different kinds of weekly publications making it difficult to lump them together. He explained that he believed the reason *The North Creek News Enterprise* had maintained the designation the longest was because they were the last of the paid weekly publications in Warren County. Mr. Frost noted that if they had continued to be a paid weekly publication, he would not be rallying for *The Chronicle*. Mr. Frost stated he hoped the Board of Supervisors would find a way to publish their legal notices with a newspaper located in Warren County.

Ms. Wood asked if *The Chronicle* offered an online edition and Mr. Frost answered they had an increasing online presence. Ms. Wood inquired whether *The Chronicle's* online presence allowed for full issues to be read and Mr. Frost stated that the whole issue was not available because they wanted the public to pick up the printed issues. Ms. Wood asked if the online version would have the legal notices posted and Mr. Frost said this was something they could do. Ms. Wood then noted that the printed version was found in stores, but wondered if it was delivered to any residents. Mr. Frost answered that there were paid subscriptions mailed out, some of which were outside of the area. Ms. Wood asked how much the paid subscription was and Mr. Frost stated it was \$45.00 per year. Ms. Wood noted that the *Adirondack Journal* was sent to homes in Thurman without a paid subscription; she said she had asked these questions so that the information would be available when this issue was revisited.

Ms. Seeber revisited the idea of obtaining assistance and guidance from NYSAC on this issue, citing that Warren County was probably not the only municipality facing this issue. Mr. Auffredou noted that Ms. Seeber raised a good point and he indicated he would like to pursue discussion with the State on this matter; he added that there were a number of counties that do not have a newspaper due to their rural nature.

Thom Randall, of the *Adirondack Journal*, noted that *The North Creek New Enterprise* was mailed to every home in their readership area, which included several towns in northern Warren County; he added that the *Adirondack Journal* was mailed to every address in four or five towns within Warren County. Mr. Randall also pointed out that both the *Adirondack Journal* and *The North Creek News Enterprise* were fully audited annually to confirm distribution figures.

Mr. Brock stated that the thought of changing Laws for the entire State sounded daunting to him and suggested that it might be possible to have another exception written for rural counties.

It was the consensus of the Committee to refer the matter of seeking a change in the Laws pertaining to the designation of Official Newspapers to the Legislative & Rules Committee for further review and consideration of forwarding the issue to NYSAC.

Ms. Seeber asked Mr. Auffredou if there was any way to estimate the costs involved with publishing notices in two papers. She noted that if they were successful in achieving a change in the State Law, there could potentially be quite a few newspapers interested in the designation. Ms. Wood added that if they were trying to reach the broadest

audience possible, they should also be provided with distribution information identifying how many people received the publications in order to make comparisons. Mr. Auffredou responded that if the Laws were changed to revise the aforementioned criteria to allow for more open business, he believed an RFP (Request for Proposal) process would be appropriate.

As there was no further business to come before the Support Services Committee, on motion made by Ms. Wood and seconded by Mrs. Frasier, Mr. Taylor adjourned the meeting at 10:25 a.m.

Respectfully Submitted,  
Samantha Hogan, Assistant Secretary to the Clerk of the Board