

**WARREN COUNTY BOARD OF SUPERVISORS
BOARD MEETING
FRIDAY, JANUARY 16, 2009**

The Board of Supervisors of the County of Warren convened at the Supervisors' Room in the Warren County Municipal Center, Lake George, New York, at 10:00 a.m.

Mr. Fred Monroe presiding.

Salute to the flag was led by Supervisor Pitkin.

Roll called, the following members present:

Supervisors Simmes, Monroe, Sheehan, Taylor, O'Connor, Kenny, Belden, Bentley, Goodspeed, Tessier, Merlino, Stec, Strainer, Champagne, VanNess, Thomas, Pitkin, and Geraghty - 18.

Absent: Supervisors Girard and Sokol - 2.

Motion was made by Mr. Geraghty, seconded by Mr. Pitkin and carried unanimously, to approve the minutes of the December 19, 2008 Board Meeting and the January 6, 2009 Organization Meeting, subject to correction by the Clerk.

Chairman Monroe requested Supervisor Belden and William Lamy, DPW Superintendent, to come forward for a presentation. Mr. Lamy acknowledged Pat Malone, Construction Supervisor, was in attendance and would be retiring after thirty-five years in the Department of Public Works. He remarked that Mr. Malone was the rock within the Department and had been a faithful employee to the County. He personally thanked Mr. Malone for the experience and expertise that he had brought to his position.

Mr. O'Connor interjected that there was a long history between the Malone family and Warren County. He noted that Mr. Malone's father, Jim Malone, held the position of Supervisor, representing Ward 4 of the City of Glens Falls for twenty-two years and he was as fine a gentleman that anyone could ever meet. He thanked Mr. Malone for his years of service.

Mr. Belden presented Mr. Malone with a certificate of appreciation for his thirty-five years of dedicated service in the Department of Public Works and he wished him well in his retirement. The board members responded with applause.

Chairman Monroe stated that Frank O'Keefe, County Treasurer, had requested permission to address the board regarding the contract for the single audit for the County. Mr. O'Keefe distributed a memo to the board members, a copy of which is on file with the minutes. He read the memo which outlined the reasons for rejecting the low bid from the Dinolfo firm for auditing services for Warren County, and accepting the bid of the Bonadio Group. He listed the requirements as set forth in the RFP (Request for Proposal) as follows:

-Must have ten years experience auditing at least two New York State counties with a population greater than 20,000. Mr. O'Keefe noted that Mr. Dinolfo did not have that experience;

-Supervisors must have a minimum experience of five years supervising audits of New York State counties of size, similar to Warren County. He said that to the best of his knowledge, he did not believe some of Mr. Dinolfo's assistants had that experience; in fact, he added, one individual had no municipal auditing experience, and worked full time for a local firm and would work on the County's audit on weekends and nights;

-The RFP requires a peer review. Mr. O'Keefe reminded the board members that Mr. Dinolfo's firm had not had a peer review;

-The RFP stated that the auditor was prohibited from assigning, transferring, conveying, subletting or otherwise disposing of the same, his power to execute such contracts to any other person without the previous consent of the Board of Supervisors. Mr. O'Keefe stated that Mr. Dinolfo had no employees and intended to sublet or subcontract much of the work to others.

Mr. O'Keefe concluded that his recommendation was to hire the Bonadio Group and he did not think that the County should lower the professional qualifications to accommodate another firm or individual.

Mr. VanNess explained that at the January 12, 2009 Finance Committee meeting, he did not feel that the Committee had received adequate time to review the reasons for the rejection of the low bid; however, he added, after having the additional time to review the information provided by the Treasurer's Office he no longer had concerns.

Mr. Stec apprised that if the diligence and thoroughness that the board members had now received had been provided when the original request was presented at the December Finance Committee meeting, the questions and concerns would not have surfaced following the actions of the board.

Chairman Monroe expounded that he had requested that the award of the contract be reconsidered after he had been contacted by Mr. Dinolfo. He said that Mr. Dinolfo had pointed out that he was a resident of Warren County, he had worked in the New York State Comptroller's Office for thirty-five years and had extensive experience, and his bid, including the three year extension, was \$26,000 less than the Bonadio Group; therefore, Chairman Monroe added, he had asked that the contract requesting his signature authorizing the Bonadio Group be held until the Finance Committee could revisit the matter.

Mr. O'Keefe interjected that the Treasurer's Office had provided all the information that was available pertinent to the award of the contract to the Finance Committee in December. He added that over the past nine years, every audit conducted for the County had been outstanding. He further stated that if any Supervisor had needed additional information, he would have expected them to contact him for such.

Mr. Goodspeed said if the emotions and personalities could be set aside regarding this matter, this was a very simple issue. He remarked that based on the terms and conditions of

the RFP, there was only one qualified responder and that was the Bonadio Group.

Mr. Merlino requested to view the RFP for single audits from three years ago and from six years ago in order to compare the way they were written to the present RFP. Mr. Kenny advised he had received a copy of the current RFP, and after reviewing it, it was clear that there were at least two provisions in which Mr. Dinolfo did not qualify. Mr. Goodspeed added there were actually three provisions that Mr. Dinolfo did not meet. He also noted that Mr. Dinolfo had expressed his disdain that the RFP read the same each and every year and had felt it should be re-written. Mr. O'Connor echoed Mr. Goodspeed's comments and stated that to see one RFP would be like reviewing all the RFP's for single audits because it had not been changed over the years.

Rob Lynch, Deputy Treasurer, clarified that the RFP was not exactly the same each year; for example, he said, the level of experience was clearly outlined in the current RFP as opposed to past RFP's. He explained that when composing an RFP, every criteria used for evaluating a firm did not have to be spelled out; however, he said, the Treasurer's Office had decided to include the level of experience based on what they had used in the past to determine which firm would be the most qualified, and in the past they had based it on ten years of experience with single audits. He added that the level of experience was not included in the RFP to exclude any particular firm.

Mr. VanNess apprised that the question of whether or not the RFP had been changed over the years was specifically asked at the January 12, 2009 Finance Committee meeting, and the response was that the RFP had not been changed; therefore, he said, now he does have concerns and would like to review the RFP.

Mr. Kenny asked Mr. Lynch if there was anything included in the current RFP that disqualified the Dinolfo firm that was not included in past RFP's. Mr. Lynch replied that the requirement for a peer review had always been in the RFP, which alone disqualified Mr. Dinolfo, and the level of experience was included but lacked the clarification of the number of years required. He noted that the ten years of experience, which had always been used as the Treasurer's criteria in determining the most qualified firm, had been added to the current RFP. He added that the prohibition of subcontracting had been in every past RFP as well.

Chairman Monroe clarified that if a Supervisor was in favor of continuing with the Bonadio Group, a vote of no should be stated for Resolution No. 39, which would rescind the original resolution that authorized the agreement with the Bonadio Group; and if a Supervisor wished to review the information further, a vote of yes should be stated for the aforementioned resolution in the packets at the appropriate time in the meeting.

Chairman Monroe announced that Pat Auer, Director of Public Health, had requested permission to address the board members regarding the issue of a possible violation of the Hiring Freeze Policy. Mrs. Auer provided the history of this case, and explained that she had

requested to backfill a position of Supervising Public Health Nurse in October of 2008 due to retirement, at which time her request was denied. She returned to the Personnel Committee in November with a proposal to backfill that position contingent upon the deletion of a Public Health Nurse, which was agreed on. Mrs. Auer noted that the Supervising Public Health Nurse retired on January 1, 2009 and following that retirement, she submitted the 426 form with the approved Notice of Intent to Fill Vacant Position and was advised that she was violating the Hiring Freeze Policy which took effect on January 1, 2009.

Hal Payne, Commissioner of Administrative & Fiscal Services, commented that part of the Hiring Freeze Policy included the stipulation that any position that had been approved prior to January 1, 2009 but would not be filled until after January 1, 2009 needed to be resubmitted for a 2/3 majority vote of the Supervisory Committee, the Personnel Committee and the full Board of Supervisors.

Motion was made by Mr. Stec, seconded by Mr. Merlino and carried unanimously to waive the rules of the board requiring a resolution be in writing, as well as with regard to Section D, No. 8 concerning approvals by 2/3 majority vote of the Supervisory Committee and the Personnel Committee. Clerk noted it would be Resolution No. 58 of 2009 for the record.

Motion was made by Mr. Stec and seconded by Mr. Thomas to authorize Patricia Auer, Director of Public Health, to fill the vacant position of Supervising Public Health Nurse, base salary of \$54,251, due to retirement. Chairman Monroe apprised a roll call vote was necessary in order to obtain a 2/3 majority vote. Clerk added it would be Resolution No. 59 of 2009 for the record.

Supervisor Girard entered the meeting at 10:36 a.m.

Chairman called for reports by Committee chairmen on past activities and the following gave verbal reports:

Supervisor Thomas, County Facilities; Supervisor VanNess, Public Safety; Supervisor Champagne, Community College; Supervisor Stec, Finance; Supervisor O'Connor, Mental Health; and Supervisor Sheehan, Support Services.

With regard to the County Facilities Committee, Mr. Thomas said the discussions were focused on a lease agreement for office space for Supreme Court Judge Muller at the CNA Building. He further stated the terms had been revised and were outlined in Resolution No. 52 of 2009 included in the Supervisors' packets. He noted the cost was now \$500 a month for the first three months, and \$15 per square foot for the remainder of one year. He reminded the board members that the location was contingent on the approval of Judge Caruso; however, he added, he felt the resolution should be approved today. Mr. Thomas remarked that the Committee had also authorized an agreement with Barrier Free Elevators, Inc. for elevator maintenance at the Municipal Center Building, and that resolution was

included in the packets as well. He added that an alternate for the electrical contract for the Health and Human Services Building was approved in the amount of \$22,000 for lightning protection. He said that the building project was still on schedule.

Mr. Thomas announced that construction of the new Soil & Water Conservation District office building was proceeding. He added that the foundation had been completed and a resolution was included in the packets authorizing Change Order No. 2 for the septic system installation.

Chairman Monroe commented on the issue of office space for Supreme Court Judge Muller. He advised that he had received a copy of a letter that Judge Muller had sent to Judge Caruso in which he discussed the verbal proposal from the owner of the CNA Building for temporary office space, of approximately 1,500 square feet under favorable lease terms. In the letter, he added, Judge Muller requested that Judge Caruso facilitate this temporary solution. Chairman Monroe expounded he and Judge Muller had toured the building with Bruce Levinsky, owner of the CNA Building, and based on the change in terms of the lease agreement as outlined by Mr. Thomas, they agreed this location was very suitable.

Mr. Kenny questioned the matter of furnishing the office and Chairman Monroe responded that Mr. Levinsky had offered to lend the furniture that was currently in the office to Judge Muller until the Office of Court Administration could provide permanent furniture for the office.

Mr. Goodspeed asked if the ultimate goal would be to provide office space for Judge Muller in the Municipal Center Building and Chairman Monroe replied affirmatively. Chairman Monroe added that he had also met with representatives from Clark Patterson to hold general discussions regarding the need for additional court space, and specifically space for Judge Muller, in order to start developing a plan. He further explained that the need for court space had been submitted to Congresswoman Gillibrand for funding under President-elect Obama's Economic Stimulus Bill; however, he said, it was likely that the first items that would be funded would be bridge projects. Chairman Monroe noted if a plan could be developed now for additional court space, and it was ultimately funded, the County would be able to move forward more rapidly.

Returning to verbal reports, Mr. VanNess apprised a joint meeting of the Public Safety Committee and Traffic Safety Board was held in reference to a personnel matter which was discussed at great length. He informed the board members that some programs may be returned to their original committees with regard to grant programs from the Public Safety Committee, specifically the Office of Emergency Services, in order to alleviate some of the burden on that Office. Mr. VanNess referred to Resolution No. 55 of 2009 included in the Supervisors' packets which authorized the County Treasurer to transfer funds from the General Fund Unappropriated Surplus into the Office of Emergency Services budget and he explained this was resultant from an insurance check received for a HAZMAT (Hazardous Material) incident.

Regarding the Community College Committee, Mr. Champagne reported that the Open House for the Regional Higher Education Building at Adirondack Community College (ACC) would be held on Thursday, January 22, 2009 at 12 noon and encouraged all Supervisors to attend. He added that Resolution No. 57 of 2009 included in the packets concerned the renewal agreement between the Warren-Washington Inter-County Solid Waste Coordinating Committee and R. Stephen Lynch, Solid Waste Coordinator, for consulting services connected with the Hudson Falls Resource Recovery Facility. He noted that Mr. Lynch had done a remarkably good job for the County.

In connection with the Finance Committee, Mr. Stec expounded that the Committee had agreed to reject the bids submitted by the BBL Development Group for the two parcels of County-owned property that had been advertised for sale.

Concerning the Mental Health Committee, Mr. O'Connor informed the board members that the State had cut funding for the Unified Funding Sources of Combined Services Board between Warren and Washington Counties. He noted that steps were being taken to arrange a meeting to further discuss the issues and he would keep the board apprised of any solutions.

Regarding the Support Services Committee, Mr. Sheehan stated Resolution No. 31 of 2009 included in the packets authorized an increase in insurance limits and added certain other coverages where the County was lacking sufficient coverage, as determined by the County's Insurance Agent.

Chairman Monroe called for reading of communications.

Clerk read communications, including the following:

Minutes from:

Warren County Planning Board.

Monthly Reports from:

Weights & Measures;
Veterinarian.

Annual Reports from:

County Historian.

New York State Sheriff's Association, required correspondence as part of a settlement agreement with the Office of the New York State Attorney General regarding the County's contract with AT & T and with Government Payment Services;

Capital District Regional Off-Track Betting Corporation, October 31 and November 30, 2008 Financial Reports.

Communications, resolutions and reports ordered placed on file.

Chairman Monroe called for reading of resolutions and discussion.

Chairman Monroe requested a roll call vote on Resolution No. 41, Authorizing Agreement with Adirondack Park Local Government Review Board for Funding of Operating Costs.

Mr. VanNess requested a roll call vote on Resolution No. 39, Rescinding Resolution No. 852 of 2008, Which Rejected the Lowest Bid and Awarded Bid and Authorized Agreement with Bonadio & Co., LLP for Request for Proposals for 2008, 2009 and 2010 Annual Single Audits for the Warren County Treasurer's Office (WC 106-08).

Joan Sady, Clerk of the Board, advised that Resolution Nos. 23 through 54 were mailed and subsequently Resolution No. 32 had been corrected and was being distributed. She added that a motion was needed to approve Resolution No. 32 as corrected. Motion was made by Mr. VanNess, seconded by Mr. Tessier and carried unanimously to approve Resolution No. 32 as corrected.

Mrs. Sady stated a motion was needed to bring Resolution Nos. 55 through 59 to the floor. Motion was made by Mr. Goodspeed, seconded by Mr. Champagne and carried unanimously to bring Resolution Nos. 55 through 59 to the floor.

Chairman Monroe called for a vote on the resolutions.

Resolution Nos. 23 through 59 were approved.

Chairman Monroe announced that the fourth quarter Sales Tax Report had been received and the report indicated that Warren County's sales tax was down by 8% and he was concerned that the decrease may carry over into the first quarter of 2009 due to the struggling economy. He also pointed out that Governor Patterson was proposing to freeze payments on State land taxes at 2008 levels which would cost Warren County approximately \$200,000.

Mr. Geraghty suggested that the County form lobbying efforts with all the Adirondack towns and that all the Supervisors should go to Albany to advise Legislators of the County's opposition to the Governor's proposed tax cap on Forest Preserve Land in Adirondack towns.

Mr. Dusek reminded the board members of a resolution that was adopted a few months ago which authorized the expenditure of up to \$3,000 to join with other counties in

contesting rules that were adopted by the APA (Adirondack Park Agency). He added that one of those rules dealt with the elimination of a Grandfather Clause, which concerned the expansion of an existing building that was in violation of shoreline setbacks. He noted that the aforementioned rule in particular would have an impact on the assessed values that could be earned in the various towns in the Adirondack Park. He apprised that nine counties and eight towns came together as a result of similar authorizations that were adopted by various towns and counties throughout the Adirondack Park, and he listed those counties as follows: Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Saratoga, Warren and Washington Counties; and the towns were Broadalbin, Bleecker, Caroga, Chester, Edinburg, Indian Lake, Newcomb and Northampton. Mr. Dusek expounded that all of those entities had come together, hired an attorney and contributed funds for such, and the petition was filed with the State Agency; however, he said, that petition was rejected by the APA and as a result, legal action was filed as of Tuesday, January 13, 2009 in Essex County, requesting those rules be nullified and declared invalid, because the feeling was that the APA had exceeded their authority. He remarked that the return date was March 2, 2009 and he would keep the board members apprised as the litigation moved forward.

Mr. Strainer expressed his appreciation to Assemblywoman Teresa Sayward for leading by example when a staff member had retired and she decided not to fill the position. He said that he hoped this would trickle down to others in Albany.

Prior to adjournment, Chairman Monroe announced an executive session was needed to discuss the employment history of a particular person. Motion was made by Mr. VanNess, seconded by Mr. Thomas and carried unanimously that executive session be declared pursuant to Section 105 (f) of the Public Officers Law.

Executive session was declared from 11:18 a.m. to 11:36 a.m.

The board reconvened and Chairman Monroe noted no action was necessary pursuant to the executive session.

Chairman Monroe reminded the board members that if anyone was interested in attending the NYSAC (New York State Association of Counties) Conference, they needed to register with either JoAnn McKinstry, Deputy Commissioner of Administrative & Fiscal Services or Mrs. Sady.

There being no further business, on motion by Mr. Belden and seconded by Mr. Merlino, Chairman Monroe adjourned the meeting at 11:37 a.m.