

SPECIAL MEETING
WEDNESDAY October 11, 2017
AT 4:45 p.m., E.S.T.

Vice Chairman Collyer called the meeting to order.

Roll call was taken. PRESENT – Timothy Szczepaniak, Alan Grattidge, Philip C. Barrett, Jonathon Schopf, Richard Lucia, Preston Allen, Jean Raymond, Paul Lent, Daniel Pemrick, Arthur M. Wright, Kevin Tollisen, Vincent DeLucia, Thomas Richardson, Willard H. Peck, John Collyer, Thomas N. Wood, III, Peter Martin, Matthew E. Veitch, John Lawler, Arthur J. Johnson – 20. ABSENT – Daniel Lewza, R. Gardner Congdon, Edward D. Kinowski – 3.

On a motion by Mr. Veitch, seconded by Mr. Szczepaniak the special meeting was ratified by a unanimous vote.

On a motion by Ms. Raymond, seconded by Mr. Peck Resolution #203 of 2017 was adopted by a unanimous vote.

RESOLUTION 203 - 2017

Introduced by the Legislative and Research Committee and the Law and Finance Committee

AUTHORIZING THE RETENTION OF NAPOLI SHKOLNIK, PLLC AS SPECIAL COUNSEL TO COMMENCE LITIGATION AGAINST THE MANUFACTURERS, DISTRIBUTORS AND POSSIBLY CERTAIN PRESCRIBING PHYSICIANS OF OPIOID PHARMACEUTICALS TO RECOVER THE COUNTY'S DAMAGES IN COMBATTING AND TREATING OPIOID ABUSE

WHEREAS, according to statistics provided by the Center for Disease Control and Prevention, in 2014 there were 28,647 opioid overdose deaths nationwide, or 78 people per day, and a 14% increase in one year, driven by prescription opioid abuse and misuse as well as heroin abuse, the latter often brought on by prescription opioid abuse; and

WHEREAS, in New York State, Centers for Disease Control and Prevention statistics show that drug overdose deaths statewide nearly tripled from 1999-2015; and

WHEREAS, according to New York State Department of Health statistics, opioid related hospitalizations and Emergency Room visits in New York State nearly doubled from 2010-2015; and

WHEREAS, in Saratoga County, New York State Department of Health statistics show a rise in opioid related deaths from 2003-2014, and a significant increase in opioid related hospitalizations and Emergency Room visits from 2010-2015; and

WHEREAS, evidence strongly suggests that opioid manufacturers, distributors and certain prescribing physicians have worked together to use their money and power to create a complex web of false representations regarding the addictive nature of opioids, and misled consumers and other physicians into believing that opioids were not addictive and were a viable option for treatment of chronic pain; and

WHEREAS, the resulting rate of addiction to prescription and illegal opiates has been greatly increasing in recent years, and has been commonly referred to as the "opioid epidemic"; and

WHEREAS, Saratoga County has seen its law enforcement and healthcare costs rise significantly in recent years in combatting the opioid epidemic and treating its victims; and

WHEREAS, it is the view of this Board of Supervisors that the County of Saratoga should seek to recover its damages from those opioid manufacturers, distributors and certain prescribing physicians directly contributing to the high costs to County taxpayers in the form of increased social services, healthcare, policing and other expenditures so as to mitigate the impact of same; and

WHEREAS, a joint subcommittee of our Legislative and Research Committee and Law and Finance Committee has interviewed representatives of the two leading law firms in the State of New York who have commenced litigation on behalf of various counties throughout the State seeking to recover their respective damages against opioid manufacturers and/or distributors and certain prescribing physicians; and

WHEREAS, it is the recommendation of the Law and Finance Committee, the Legislative and Research Committee and their joint subcommittee that the County initiate litigation against opioid manufacturers, distributors and certain prescribing physicians to recover the County's damages in combatting the opioid epidemic and treating its victims, and that the law firm of Napoli Shkolnik PLLC, a firm with extensive experience in

pharmaceutical litigation, be retained as special counsel to prosecute such litigation on behalf of the County; now, therefore, be it

RESOLVED, that this Board of Supervisors hereby authorizes and approves the commencement of civil litigation on behalf of the County of Saratoga against the manufacturers, distributors and certain prescribing physicians of opioid products, who have culpability in the manufacture and promotion of such products in an unsafe manner, to recover the County's damages in combatting the opioid epidemic and treating its victims; and, be it further

RESOLVED, that the Chair of the Board is hereby authorized to execute a retainer agreement with Napoli Shkolnik PLLC of the City of New York to serve as special counsel to the County with respect to the initiation and prosecution of such opioid litigation on a contingency fee basis under which special counsel would receive: i) 7.5% of pre-complaint recovery; ii) 15% of recovery after ruling on a motion to dismiss; iii) 20% of recovery after close of pre-trial discovery; and iv) 25% of recovery after ruling on summary judgment, with such amounts to be computed on the net sum recovered after deducting allowable expenses that have been advanced by special counsel; with no monies to be paid to special counsel for any work performed, costs incurred or disbursements made by special counsel in the event no recovery to the County is obtained by special counsel; and, be it further

RESOLVED, that the form and content of such retainer agreement shall be subject to the approval of the County Attorney.

BUDGET IMPACT STATEMENT: No budget impact.

On a motion by Mr. Lent, seconded by Mr. Allen the meeting was unanimously adjourned.

Respectfully submitted,

Pamela Wright, Clerk