

AGENDA SESSION
August 12, 2020 5:00 p.m.
Meeting Minutes

Vice Chairman Pemrick called the meeting to order and welcomed those in attendance.

Roll call was taken. PRESENT – Eric Connolly, Philip C. Barrett, Jonathon Schopf, Richard Lucia, Preston Allen, Jean Raymond, Michael Smith, Daniel Pemrick, Arthur Wright, Kevin Tollisen, Darren O’Connor, Theodore Kusnierz, Benny Zlotnick, Willard H. Peck, Sandra Winney, Thomas N. Wood, III, Tara N. Gaston, Matthew Veitch, Edward D. Kinowski, John Lawler, John Lant – 19. ABSENT - Alan Grattidge, Thomas Richardson – 2.

On a motion by Mr. Kinowski, seconded by Mr. Smith the minutes of the July 15, 2020 meeting were unanimously approved.

Mr. Pemrick asked for a motion to accept the agenda for the July 21, 2020 Board meeting as presented and approved by the Law and Finance Committee prior to this meeting. The motion was made by Mr. Kinowski and seconded by Mr. Zlotnick. Unanimous.

Mr. Kusnierz – Thank you Mr. Chairman. At this time, although I tried garnish support from the Law & Finance Committee to make the independent report made available to the public and it lost on a 4 to 3 vote. At this time, **I would like to once again offer the motion to make the confidential report of the investigation regarding increased compensation for physically present workers and action by COVID-19 Oversight Group that has been prepared by E. Stewart Jones, Hacker and Murphy released to the public.**

Mr. Pemrick asked for a second.

Ms. Gaston said she would second that motion.

Mr. Pemrick said moved and seconded. Discussion. Before discussion, I would like to turn to County Attorney and ask if we can do that business at this meeting.

Mr. Dorsey said no, this should be the subject of a special meeting of the Board or just added to the Law & Finance, I mean, Board’s agenda for Tuesday. One or the other but there was no special meeting called for that purpose today. This is a board resolution and there is no notice provided for that. So either call a special meeting between now and Tuesday or just add it to the agenda for Tuesday.

(Many supervisors speaking.) Mr. Pemrick said just a minute please. Mr. Kusnierz go ahead.

Mr. Kusnierz said Mr. Chairman this is a fully, publically scheduled meeting of this Legislative Board. We have the ability to take action at any time when it’s been properly noticed and a quorum is present. Do we have, has this been noticed to the public? That is a question for the County Attorney.

Mr. Dorsey said the Agenda Session has been properly noticed.

Mr. Kusnierz said ok, as such, this is a governing body that may take action at its pleasure. He made a motion and you are incorrect. You have been incorrect in some of your opinions to this Board. And I disagree with your comment. There is a resolution on the table and I expect action on it.

Ms. Gaston said point of information, under what authority is this action not allowed. Where in the rules or where in the County law, does it say we cannot do that?

Mr. Dorsey said the Rules of the Board allow resolutions to be offered from the floor at a Board meeting, at the regular monthly meeting, under miscellaneous business. This is not a regular Board meeting.

Ms. Gaston asked where does it not authorize business to be conducted at an Agenda Session. Given the agenda says any other business, so presumably.

Mr. Dorsey said he was talking about a regular Board meeting. This is an Agenda meeting, that sets the agenda for next Tuesday. There has been no proper notification of a special meeting for this purpose. You can certainly add it to Tuesday's agenda or you can have a special meeting anytime between now and then to do it.

Mr. Kusnierz said Mr. Chairman.

Ms. Gaston asked Mr. Kusnierz to hang on a second and added she understood what Mr. Dorsey was saying but she did not understand where it says this is not allowed. In our agenda, which I agree is not properly noticed, because we do not provide agendas in a timely manner, however, given the practice of our Board it says any other business.

Mr. Dorsey said it was more a case of it not being authorized then it being prohibited. It's authorized for a regular meeting. There is nothing about it being authorized for Agenda meetings.

Mr. Kusnierz said Mr. Chairman, if the Board is unwilling to vote on this then he would read the document in its entirety into the record.

Mr. Connolly said is there any past precedent of the Board introducing a resolution at an Agenda meeting?

Mr. Pemrick said he would have to defer to the County Attorney but he is shaking his head no and certainly not in his recollection.

Ms. Gaston said is he shaking his head no or is he shaking his head that he does not have an answer at this time. She asked for a verbal response.

Mr. Dorsey said he had never seen a resolution introduced at the Agenda meeting that was not properly noticed as a special meeting at the conclusion of an Agenda meeting.

Mr. O'Connor said Mr. Chairman I have a question. If we can't vote on this, is there anything preventing this Board from taking a roll call to get a consensus of the member of this Board whether this should be released. And if it is the consensus that it should be released then anyone can just give it out. Can we do that at least if we can't do a binding vote and pass a resolution?

Mr. Pemrick said I don't know the answer.

Mr. Dorsey asked Mr. O'Connor to repeat the question.

Mr. O'Connor said we go around the room; we take a consensus of the members Board, whether this report in its entirety should be released. And if it the consensus of the Board on a weighted vote that it be released now un-redacted, since we all have it, it can just be released. It doesn't have to be a resolution, it seems to him.

Ms. Gaston said she didn't see how that distinction is any different but her question remains she hasn't heard why this is prohibited. And if it is not prohibited she would like to know under what authority we are interpreting the Rules to prohibit us from doing so.

Mr. Pemrick said he thinks what our Attorney said was that it's not a question of it being prohibited; it's not authorized to do at an Agenda meeting.

Ms. Gaston said under our Rules and under County Law, are we not allowed to engage in behavior that is not specifically authorized for us as a governing body at the Board of Supervisors. I'm not attempting to be obtuse, I'm trying to get an actual legal opinion on what we can do or not. This seems like a very serious concern if we cannot engage in business as a governing body unless we do so under perimeters that are not in our rules. Perhaps our rules in the County Law need to change.

Mr. Pemrick said this is serious business and we are talking five days. We can sit here and argue until cows come about releasing it today or taking a vote and waiting to do it next Tuesday. I'm puzzled by the angst, concern, we share everyone's feelings about the length of time that this has gone on. And that fact that it should be disclosed

to the public, we have issue with that. We are now trying to follow proper procedure here and doing it at the appropriate time. In addition, it would give other Supervisors that are not here today the opportunity to be here.

Mr. Lawler said Mr. Chairman, a few comments. I agree with Supervisor O'Connor. I don't see any reason why we couldn't take a non-binding, consensus of the Board resolution. I want to move forward and get this over with. The agreement can be made why wait until Tuesday but if the report isn't going to change why not wait until Tuesday but if the report isn't going to change why wait until Tuesday. He didn't see much difference in that. Every Supervisor has a copy of this report. Every Supervisor here could turn around and hand the report to Wendy Liberatore tomorrow or later tonight. It's not like it hasn't been done; cause it has. So there is nothing stopping anyone here giving this report out. If we want to have a vote on it and appear as though we somewhat in control or at least considering the questions before us, I'm fine with having a non-binding vote. We are talking about trying to move forward. Between today and Tuesday there will be nothing but an unrelenting assault and argument about why didn't we do it sooner, why did we wait until Tuesday. People can have strong opinions about it. This report is going to be released no later than Tuesday. And rather than fight about it about releasing it on Wednesday or on Tuesday, personally I would rather take the non-binding vote. Frankly there is nothing stopping anyone from walking out of the meeting, driving to the Times Union and putting it on Wendy Liberatore's desk. The argument is over nothing here. Let's just take the vote.

Mr. Schopf said for the first time in six months, he agrees with everything Supervisor Lawler just said.

Mr. Lawler said then he must have said something wrong.

Mr. Peck said he does not want to change and open up the Agenda meetings to a free for all session that we now without notice to other Supervisors that aren't here, he would rather do a non-binding vote to release. He doesn't want to start a precedent that hasn't been done in the time he has been here where we start doing business on Agenda Day unless we notify the public that we are having duly operating business. He thinks it puts Supervisors such as Tom Richardson who isn't here and others without notice that we are having a meeting. Just do as you said and have a non-binding vote but don't start making motions, passage and actions on Agenda Day.

Ms. Gaston asked for clarification on what that would be.

Ms. Winney asked what happens to the Law & Finance vote? Where does that go?

Mr. Pemrick said that was a Committee vote.

Mr. Tollisen said that he wanted to state for the record that in Executive Session, he believed that just about everyone in the room said that the report should be released un-redacted. Just about everyone. Then we talked about whether to do it in Law & Finance or whether it would be brought up at Agenda. It was agreed that he would bring it up at Agenda. Supervisor Kusnierz brought it up. He isn't sure what the play is here but he thinks everyone agreed it should come up today and he wants the vote on it. The taxpayers deserve this report, un-redacted. They've waited long enough. The good people of Saratoga County that work for us deserve an apology. We need to figure out what it is that is owed, a summary of all the people that are owed, and move forward; and, be done with this issue.

Mr. Pemrick said most of us here don't agree with that. What we are stumbling on now is the following of proper procedure.

Mr. Tollisen said he would remember this at the next Law & Finance meeting.

Mr. Kusnierz said through proper procedures, in the Law & Finance Committee he offered a resolution. It was seconded. It was defeated. That leaves every Supervisor here with the next option to bring it up at the Agenda Session. We have the legal ability to do it. And quite frankly, he is going to be very blunt, there's obstruction going on here on the part of the County Attorney giving advice that is trying to protect staff of this County. He is absolutely appalled by that. No legal basis has been provided to him or any other supervisor that have asked for it today, where the authority rests in not being able to bring that to a vote in Agenda Session. He just heard it mentioned we want to do this when a meeting is properly advertised. It was. This is a full Board meeting. You can take action whether it's an Agenda Session or a full Board meeting. It's basic legislative procedure. He asked

for the County Attorney, in his spare time, that he follow up on that and provide a decision with supporting documentation so the Board doesn't have this issue again.

Ms. Gaston asked what a non-binding vote. What are we non-bindingly voting on? Are we saying, yes it's fine to release it or yes I don't but we are not voting on it so that any individual supervisor can release it? She said that is a distinction without a difference.

Mr. O'Connor said it's just as Supervisor Lawler was saying. He pointed out, quite correctly, that any member in this room, can give this report to Wendy Liberatore tonight. So an informal consensus would just allow any supervisor to do that. Most supervisor including him would never do that unless there was a consensus of the Board to allow that to happen. He doesn't believe it has to be a formal resolution. This will just be consensus of the Board.

Ms. Gaston said personal respect of her colleagues has been what's prevented her from releasing it despite the fact she has been yelled at by many of her constituents wanting to find out more.

Mr. Dorsey said he was looking at this as being in form of a resolution. If you just want to do it as a motion, that's fine. But it should be specified that you are waiving the attorney client privilege that comes with it. That is a specific recommendation of the Jones, Hacker, Murphy firm that you waive the attorney client privilege when releasing the report. He heard a motion to release the report. It should be specific that that's what you're doing. Treat it as a motion and an order of business. It won't be a resolution of the Board.

Ms. Gaston said if Supervisor Kusnierz amends his motion to just say you move that we vote to release the report and waiving the attorney client privilege but doesn't use the word resolution that can be done in an Agenda Session?

Mr. Dorsey said he took it to be that there was a resolution offered on the floor.

Ms. Gaston asked Mr. Kusnierz if he meant it to be a resolution.

Mr. Kusnierz said he did because he has that authority.

Ms. Gaston asked him if he wanted to use the word resolution.

Mr. Kusnierz said there is a resolution on the table so if we are not going to vote on it he would like to go down through the list of his colleagues and ask for their opinion.

Mr. Kusnierz then started.

Supervisor Connolly – He is in favor of releasing it without redaction immediately.

Supervisor Barrett – In favor of releasing without any redactions whatsoever. He wholeheartedly agree with Supervisor Kusnierz that this business and vote can and should be taken at any meeting where there is a quorum of the Board of Supervisors in a meeting that was properly published and noticed.

Supervisor Schopf – He agrees the report should be released immediately in full, waive any attorney client privilege with its release and he agrees the Board has the legal authority to vote on it today.

Supervisor Allen – He said he guesses he agrees with releases it as long as there is no other legal actions that will be taken against us for doing do. Union, attorneys or otherwise.

Supervisor Smith – He agrees with the release.

Supervisor Wright – He wholeheartedly agrees. He figures someone already has it so what difference does it make.

Supervisor Tollisen – He believes he has been clear and supports the full release report.

Supervisor O'Connor – He agrees the entire report should be released without redaction and the attorney client privilege should be waived.

Supervisor Zlotnick – He agrees the report should be released. He is a little confused as to whether this is for today or next Tuesday.

Supervisor Kusnierz said he is asking whether it should be released immediately.

Supervisor Zlotnick – Immediately, he says no.

Supervisor Peck – He would wait the five days and release it at the Board meeting. He would allow the outside Goldberg Segalla to evaluate any issue as well. In general, it should go to the public, it will. He doesn't have issue with the five day retrieval since it has been going on since March 15th. He thinks in general people understand and are focused on school and reopening that; and, public health. This is an issue, we knew there were mistakes made. We are going to correct them and move on. He's not sure of the angst here today but he would vote no on the release today. He would do it at a normally scheduled Board meeting or at a notified one if there could be one tomorrow. But, more importantly, he would want advice from County's outside council regarding any opportunity for exposure he would like to take all the steps first, fill obligations and then do that.

Supervisor Winney – She votes no. She votes to wait until next week. As it's been said, there needs to be more information, more data and she's surprised she hasn't seen it in the Times Union yet. Other reports and information from the County have been in there. Of course no one gave it to them. She knows this has to come out but she thinks there needs to be more data.

Supervisor Wood – He supports the full release of the document and complete openness here. If given a preference he would prefer that it be released in five days. Today or five days from now isn't going to make a difference. The report is the report. We aren't hiding anything. Some mistakes were made. We need to fix some things. Let's get to the task of righting some wrongs.

Supervisor Gaston – On behalf of her constituents who have been requesting accountability from the County since March 15th she thinks the full report with all legal conclusions should be released, waiving attorney client privilege to those items. She also disagrees that the Board does not have the legal authority to vote on this at this time and she would second a request that the Board get a legal opinion on that. She thinks that is germane to the business that we do as a County government.

Supervisor Veitch – He would vote to release the report un-redacted and waive the attorney client privilege. He agrees with his colleagues that he thinks the Board has a right to vote on pretty much anything they want. They are there as a quorum and we have that right.

Supervisor Kinowski – He would vote no because he thinks the Board would be making another mistake. He thinks this Board has worked for decades and the many month and years he has been on this Board how things move forward in unison. For the most part we do it. His concern would be for the constituents and the County's employees. How they are treated, how they are not treated, quite frankly, he has many questions. He jokingly sent a text to Chairman Allen said there should be a special meeting starting in the morning and last all day serving breakfast, lunch and dinner. He thinks that's how long it would take. He thinks the Board should wait the four or five days to give the staff time to review the report for additional labor issues and concerns.

Supervisor Lawler – He does vote to release the report. He thinks putting it off until Tuesday creates greater argument and division among this Board. We have more than enough of that right now. Whether it is released today, or Tuesday it's not going to change the content of the report. It's not going to change the outcome of the report. He doesn't know if the Board has the authority to take a vote today. He would defer any answer on that question until the County Attorney, whose integrity he respects, he doesn't believe the County Attorney gives incorrect or false legal advice as you have said that he does, Supervisor Kusnierz, to try to protect the administration. He applauds the County Attorney for not taking personal exception to that. He thinks it is important to say that the County Attorney does have integrity and gives the Board advice that he feels is appropriate and legal. He wants to assure our Clerk, Pam Wright, that despite Supervisor Kusnierz's outstanding roll call ability that he is displaying here today, as far as he is concerned her job here is secure. He wanted to make that clear.

Supervisor Kusnierz said to his colleague's comment, most recent comment regarding integrity and action by the County Attorney, he'd like the public to take a look at the report and make up their own mind.

Supervisor Lant – he said he agrees with Supervisor Kusnierz's motion and votes yes, release. It.

Supervisor Kusnierz said he knows there are Supervisors on the phone but he's not sure who they are.

Supervisor Lucia and Supervisor Raymond are on the phone.

Supervisor Raymond – she said she absolutely agrees the report should be released, as it should come from the Board not from someone who hands it off five minutes after the meeting ends. She tends to think it shouldn't be done today but she also thinks if we wanted to do it today we could stay another hour and just amend the Rules of the Board in whatever way is necessary. She thinks the County Attorney is correct in his opinion but the Board has more weighted vote than the County Attorney and we could amend the rules and make it ok so it kind of doesn't matter. It's going to be released and it should come from the Board and not slipped under someone's door in the next 24 hours at the Times Union or the Saratogian. It is what it is. The taxpayers paid for this report. We represent the taxpayers. They are entitled to see it. They are going to see it no matter what. She has no problem with them seeing it. The only thing she would say beyond this is that obviously the report pointed out some flaw in our process and she thinks its important going forward that we look at how the process works so that we are more involved and the communication is better. And, having said that, she doesn't fault the staff, because the Board has been perfectly content for as long as she has been here to let them do the work and not particularly get involved. She thinks it's time for the Board to be move involved in what's going on and much more aware of what's going on.

Supervisor Lucia – He said he thinks the Board should wait until Tuesday. He said the audio was breaking up for a while so he wasn't sure if the motion was on the floor or off but he would have been a no to the motion. He agrees it's probably going to make the paper before the meeting is over.

Supervisor Pemrick – He agrees with Mr. Peck said. He thinks it should wait until next Tuesday and give us the opportunity to refer to legal counsel and get document regarding salaries and monies owed so we can be more clear on the actual mistakes regarding salaries in that motion.

Supervisor Kusnierz said what he has heard here today and the conclusion he will draw is that the majority of this Board is supportive of releasing this document immediately, to the public, un-redacted and he heard it mentioned a couple of times about the concern of the press receiving a copy. He thinks there is a disconnect there. We work for the public. This is not for the press. This is for the public that we represent in our roles here as Supervisors so he doesn't care about the press. This is for the residents of Saratoga County. Thank you.

Mr. Zlotnick said he understood they have a responsibility to our constituents and he's not really concerned about the newspapers, but when he got the envelope last week, the word across the top of it was confidential.

Mr. Pemrick said that was correct.

Mr. O'Connor said he has one question if he didn't mind. He thinks it is clear a vast majority of the Board would like to release it today un-redacted. Can this come from the County instead of Supervisors? He thinks that would be better.

Mr. Kusnierz said if he may. He would be willing to make a motion that we release the attorney client privilege of the document at this meeting today. Mr. O'Connor seconded.

Mr. Pemrick said that was just done informally.

Ms. Gaston said we can't informally waive attorney client privilege.

Mr. Kusnierz said he just heard the County Attorney before he began, looking for clarification what his motion actually was and wanted to know if it was a resolution or just looking to release attorney client privilege. He thinks the County Attorney said the Board can do. He asked if he was accurate with that.

Mr. Dorsey said yes, if there is a second to the motion to amend then there can be a roll call vote.

Mr. Kusnierz said there was a second.

Mr. Pemrick asked what Mr. Kusnierz's motion was. Mr. Dorsey said there is an amended motion before the Board now.

Mr. Kusnierz said he amends his motion to specifically state that the report, if he needs to repeat his motion for a third time he would be happy to do so. If you are ok with it as is, he will not. But to lift the Attorney Client nature of the report.

Mr. Pemrick asked for discussion.

Mr. Kinowski asked who would be releasing the report.

Mr. Kusnierz said he was not an attorney but there were plenty in the room and we have one up here representing the County. However, the attorney client privilege nature exists between the attorney and the client, us the Board of Supervisors. So when we as Supervisors allow his to be lifted, it is available with no ramifications to anybody who wants to see it.

Mr. Kinowski said he gets that; but, Supervisor O'Connor suggested that the staff release it. He asked Mr. O'Connor if that is what he indicated.

Mr. O'Connor said he thinks it is better coming from them.

Mr. Kinowski said he wholeheartedly agrees with Mr. O'Connor and that's why he asked. County Administration would be releasing.

Mr. O'Connor said yes, that's how he interpreted the motion. Release the report manually and therefore waiving the attorney client privilege.

On a motion by Mr. Kusnierz, seconded by Ms. Gaston, as amended by Mr. Kusnierz and seconded by Mr. O'Connor making the confidential report of the investigation regarding increased compensation for physically present workers and action by COVID-19 Oversight Group that has been prepared by E. Stewart Jones, Hacker and Murphy; release the attorney client privilege of the document; and, release this document to the public today was approved by the following vote:

AYES: Philip C. Barrett, Jonathon Schopf, Preston Allen, Jean Raymond, Michael Smith, Arthur M. Wright, Kevin Tollisen, Darren O'Connor, Willard H. Peck, Theodore Kusnierz, Thomas N. Wood, III, Tara Gaston, Matthew E. Veitch, John Lawler, John Lant.

NOES: Richard Lucia, Daniel Pemrick, Benny Zlotnick, Sandra Winney, Edward D. Kinowski.

ABSENT: Eric Connolly, Alan Grattidge, Thomas Richardson.

Mr. Barrett said at the last meeting he and some others had some issues on the fictional internal report that was done. He wanted some changes to that and asked where that stood/where does that process go.

Mr. Lawler said they aren't making any changes.

Mr. Barrett said so there are no process of making any changes with that.

Mr. Lawler said Mr. Barrett had expressed his disagreement. You are free to write your own report.

(Supervisors speaking at the same time.)

Mr. Barrett said maybe he would ask for/conduct a second opinion.

Mr. Lawler said if you want to conduct a second opinion that your choice. We did an investigation. We wrote a report. We issued the report. If you feel that the report somehow doesn't do what should be done. Feel free to write your own report.

Mr. Barrett said, for the record, to even mention the internal report in the same breathe, as the external investigation that was done is ridiculous. So he wanted to say for the record, that was pointed out today at some point. He thinks he was recently called after they questioned some of the things in the internal report, some were called paranoid by Supervisor Lawler. Is that correct?

Mr. Lawler said and rightfully so.

Mr. Barrett said paranoid, conspiracy. It seems as though what was labeled as paranoia was actually well placed concern. And he thinks that has been demonstrated with the external investigation. So you can call him whatever he wants, he doesn't care but,

Mr. Lawler said he hadn't called him anything.

Mr. Barrett said he had called him paranoid.

Mr. Pemrick said alright gentlemen, let's get to the business.

Mr. Barrett said he is in good company so if there is no process to consider any changes to that internal report then especially after reading the external investigation the only place for the internal report is in the garbage or the fictional section of the library but those are the only places that should be.

Mr. Pemrick called for a motion to adjourn.

Supervisor Lawler, said No, no Mr. Chairman, he's sorry. That's not going to work. There will not be a motion to adjourn right now. He thinks he is entitled to respond that absurd diatribe from Mr. Barrett. He said he hadn't interrupted Mr. Barrett and he expected the same courtesy. That report represented many months of hard work. We took the word of three highly respected, at least by most of the supervisors, as to what happened. We took the word of Chairman Allen. We took the word of Vice Chairman Pemrick. We took the word of Supervisor Wood as to what happened during that time. He personally respects those three people and he believes them. The external report, other than the labor law issue, and we took no effort to review labor law nor were they qualified to do so, they agreed minutes should be kept. We agreed that the exempt employees and the management confidential employees that their pay was taken back. 90% of what the external report wrote, we agreed with and was in the internal report. The external report does not say the internal report was wrong. It does not say that.

Mr. Barrett asked how Mr. Lawler knows the attorneys looked at it.

Mr. Lawler said he knows they looked at it.

Mr. Barrett asked Mr. Lawler how he knew that and asked if he was working on both investigations.

Mr. Lawler said he had sent a copy of the report as a matter of courtesy.

Mr. Barrett said he doesn't know what the attorney's scope was because even though they asked many times, that wasn't given. Was it in his scope to review the internal investigation?

Mr. Lawler said he asked for it.

(Both supervisors were speaking at the same time.)

Mr. Lawler said again you are not letting me finish my remarks but I'll try to answer your questions. He asked for a copy of the report. In order to be cooperative with the external investigation he sent him a copy of the report. If he had not sent him a copy of the report, you would be sitting here saying that I had refused to give the external investigators copies of documents they wanted. And that's the problem. No matter what happens here people find fault with it. And it's believed that that fault is driven by some plot that there are some that are against others.

That the administration is secretly conspiring with people. And that's nonsense. And that is paranoia. You're free to conduct your own internal investigation. God knows you have enough people to help you. Feel free to do it.

(Supervisors speaking at the same time.)

Ms. Gaston said Mr. Chairman.

Mr. Pemrick said we are not making any progress here. Nothing good is being accomplished and he asked for a motion to adjourn.

Mr. Pemrick acknowledged Mr. Smith for making the motion. Mr. Kinowski seconded.

Ms. Gaston was speaking at the same time stating point of privilege. She had requested to speak several times. She asked for it to be on the record that the Chairman is refusing to recognize a legally elected supervisor.

Mr. Pemrick said all in favor of adjourning.

(Many Supervisors speaking at the same time.)

Mr. Pemrick said he didn't know if anyone could call for a voice vote and announced the meeting was adjourned.

Respectfully submitted,

Pamela Wright
Clerk of the Board

PROPOSED RESOLUTIONS

HEALTH & SOCIAL SERVICES

Authorizing the Chairman to enter into a contract with Rejha Group LLC to provide transportation services for preschool children with special needs.

Authorizing the Chairman to enter into agreement(s) with Greater Adirondack Home Aides Queensbury NY and NEC Care, Inc. Gansevoort NY for In-Home Respite Care at an hourly rate of \$24.00 beginning September 1, 2020 through December 3, 2020.

Authorizing the Chairman to accept funds from the Aging and Disability Resource Center (ADRC) COVID—19 program funded under the Coronavirus Preparedness and Response Supplemental Appropriations and amending the budget in relation thereto.

Authorizing a contract renewal with Northeast Dining and Lodging d/b/a Golden Corral to provide meals for the Home Delivered Meal Program and the Congregate Meal Program at a cost of \$7.88 per meal for the term January 1, 2021 to December 31, 2024.

Authorizing an agreement with Health Research, Inc. to accept a New York State Department of Health Public Health Emergency Preparedness Program Grant.

HUMAN RESOURCES & INSURANCE

Authorizing a temporary increase in the rate of pay for Cathleen Medick, Director of Patient Services, to \$60.5427/hour until such time a Public Health Commissioner is hired.

Authorizing an amendment to the 2020 Compensation Schedule to reclassify (1) Records Management Clerk to (1) Civil Clerk in the Sheriff's Department.

PUBLIC SAFETY

Authorizing the acceptance of an Emergency Management Performance Grant from FEMA on behalf of the NYS Division of Homeland Security and Emergency Services in the amount of \$48,009.

REAL PROPERTY TAX

Temporary amendment to Resolution 166 of 1996 Establishing Auction and Conveyance Policies for County Lands.

VETERANS

Resolution supporting the Commitment to Veterans Support and Outreach Act.

RACING & GAMING

Resolution supporting the Saratoga Casino re-opening plan and urging the Governor to allow the Casino to reopen.

ECONOMIC DEVELOPMENT

Authorizing the chair to enter into the necessary agreements to apply for, accept and administer a New York State snowmobile grant-in-aid program grant.

Amending the Zim Smith Trail Capital Account to indicate proper grant funding awarded from NYS Parks Recreation and Historic Preservation.

Setting a Public Hearing for Agricultural District #1 8 year review per Ag. and Markets Law 25-AA section 303a.

CHAIRMAN'S ITEM

Appointing a commissioner of the Saratoga Lake Protection and Improvement District.

LAW & FINANCE

Authorize the acceptance of a grant from the William G. Pomeroy Foundation in amount of \$1,100 and amend the budget in relation thereto.

Setting a public hearing on September 9, 2020 at 4:25 pm for the purpose of considering the proposed increase in the maximum estimated cost of the Regional Biosolids Digester Facility to be constructed by Saratoga County Sewer District No. 1 in cooperation with the Albany County Water Purification District.

REGULAR MEETING
TUESDAY, August 18, 2020
AT 4:00 p.m., E.S.T.

Chairman Allen called the meeting to order and asked for the roll call.

Roll call was taken by Mrs. Connolly. PRESENT – Eric Connolly, Alan Grattidge, Philip C. Barrett, Jonathon Schopf, Richard Lucia, Preston Allen, Jean Raymond, Michael Smith, Daniel Pemrick, Arthur M. Wright, Kevin Tollisen, Darren O'Connor, Thomas Richardson, Benny Zlotnick, Theodore Kusnierz, Willard H. Peck, Sandra Winney, Thomas N. Wood, III, Matthew E. Veitch, Tara Gaston, Edward D. Kinowski, John Lawler, John Lant - 23.

Mr. Allen asked everyone to stand for the attention to the flag and remain standing for the Chaplain.

Mr. Wood, Chaplain, said “Let Us Pray. The month of August brings with it a sense of urgency. Summer is drawing to a close and there is a need to do the things that we have put off. As the final days of summer dwindle in number to a precious few and grow shorter, we thank you for the wonderful summer season, for all of the highly successful summer events, and for the abundant and bountiful life that you make possible. We thank you for keeping us healthy and for allowing us to function safely to conduct the work of Saratoga County during this unchartered COVID 19 pandemic period. Give us the wisdom, courage, and knowledge to continue to work safely and to help see that all of the residents of Saratoga County are properly provided for and kept safe.

As a Board of Supervisors, working through the events of recent months and their impacts let us be civil to one another, responsible, objective, honest, complete, and unbiased. We all know that mistakes were made. We are human, and none of us is perfect; but what is important is that we recognize and identify our mistakes and improper actions, correct all improper or inappropriate results that occurred as a consequence of the mistakes, and put in place actions, policies, and procedures that will prevent these mistakes from occurring in the future. Personal attacks, faultfinding and improper language are not productive and get in the way of working through the situation.

Lastly, we ask that you help us maintain the security of our country and keep all of the members of the military service safe.

In your name, we pray. Amen.

On a motion by Mr. Peck, seconded by Mr. Wood the minutes of the July 21, 2020 meeting were unanimously approved.

The Clerk presented the following:

Letter from Dr. Timothy A. Brooks resigning from the Public Health Professional Advisory Committee.

Received and Filed.

Letter from Cristina Connolly resigning as commissioner at large from the Saratoga Lake Protection and Improvement District.

Received and Filed.

Letter from NYS Homeland Security & Emergency Services information the county of an Emergency Management Performance Grant.

Received and Filed.

Letter from Hinckley Allen.

Dear Chairman Allen:

I, along with my partner, Michael Koenig, represent Saratoga County Administrator Spencer Hellwig in connection with the events addressed in the July 8, 2020 Report prepared by a subcommittee of the Human Resource and Insurance Committee (the "Subcommittee Report") and the August 6, 2020 Report prepared by Jones Hacker Murphy, LLP (the "Jones Hacker Report"). Mr. Hellwig has been advised that the Saratoga County Board of Supervisors (the "Board") intends to take adverse employment action against him, including potential termination of his employment, on the basis of the Jones Hacker Report and the negative publicity the Board has received concerning compensation to County employees during the unprecedented COVID-19 pandemic. We request the opportunity to substantively and meaningfully respond to any concerns the Board has regarding Mr. Hellwig's conduct before it takes any employment action against him.

Mr. Hellwig has been a faithful public servant for over 32 years and neither the Subcommittee Report nor the Jones Hacker Report justifies the Board's termination of Mr. Hellwig's employment. The Subcommittee Report rightly concluded that "there was no conscious effort to mislead the BOS regarding actions taken relative to the Covid compensation program" and that "the Administration and the Covid Committee were making good faith efforts to respond to the urgency of the pandemic situation which had been compounded by frequent external pressures from Supervisors, the public and the media." While there are several notable legal errors made in the Jones Hacker Report, including in its analysis of relevant Labor Law provisions and its analysis of the authority granted to the Covid Committee, that Report also correctly and expressly concluded that Mr. Hellwig did not engage in any illegal activity in connection with his role on the Covid Committee. Any adverse employment action taken by the Board against Mr. Hellwig on the basis of either report would be arbitrary and capricious and a baseless attempt to make Mr. Hellwig the public scapegoat for the Board's unpopular decision to delegate its compensation decision-making authority to the Covid Committee.

Mr. Hellwig would like to discuss the issues of concern that seem to be driving the Board's purported intention to terminate him, and amicably resolve whatever differences exist. However, please be advised that Mr. Hellwig intends to pursue all available rights and remedies afforded to him under, and to the full extent, of the law if he is terminated by the Board.

We also demand that the Board and Board Members preserve any and all email, documents, text messages, and correspondence relating to this matter, including but not limited to: (1) all communications by and between the Board Members concerning potential disciplinary action against Mr. Hellwig, including text messages sent to or from Board Member's smart phones; (2) all notes taken during meetings or on telephone/zoom conversations in which potential disciplinary action against Mr. Hellwig was discussed; and (3) Mr. Hellwig's personnel file.

This letter is not an exhaustive statement of the relevant facts or law. Mr. Hellwig expressly reserves all of his legal and equitable rights and remedies.

Very truly yours, Victoria P. Lane

Copy to all Supervisors.

REPORTS OF COMMITTEE

Ms. Raymond said thank you Mr. Chairman. She wanted to let everyone know on their desk is a update on the census, both in terms of the percentage of response from the Towns but also we have finally, since March, waiting, we were notified that we were going to be given 50% of the grant that we had applied for. We had to resubmit. It's been approved. What you see with you is the sample of the flyers that we are going to have many printed up to distribute around the County. Also, the same flyers are going to be made in to lawn signs. She thought there would be 1,000 ordered at first and asked Chad. Mr. Cooke said yes. Ms. Raymond said 1,000 signs have been ordered to start with and will be distributed to each Town as soon as they come in which hopefully will be in the next few days. She asked Mr. Cooke if we knew when. Mr. Cooke said we do not know when. She is told, and you may already know this, the enumerators are finally out, in the field, knocking on doors of non-responsive people. This is the time to really put the push on. This push will be coming to an end at the end of September unless it's extended by the Federal Government. Everybody go out and get everybody counted. Our not for profits that had applied the money that we get we only spend 25% of it. The rest has to go to not for profits. The not for profits were pre-approved by the State have resubmitted their applications so the rest of that money will be going to the not for profits. She thought there was four of them. Mr. Cooke said three. She said it is EOC,

Mechanicville Community Center. Mr. Cooke said Saratoga Senior Center. Ms. Raymond said Saratoga Senior Center. Those were the only ones that actually had been approved and applied. There will be some money going in to all three of those not for profits which will benefit the communities and the people that they reach out to. She is happy to finally have something to report. Thank you.

Mr. Allen said thank you, any other reports. Supervisor Peck.

Mr. Peck said just quickly as a reminder the ribbon cutting for the much anticipated Public Safety Building is Thursday at 10 a.m. Tours will be available. There will be a short program and then tours as well.

Mr. Allen asked if there were any other.

Ms. Gaston said Mr. Chairman, before we enter resolutions she moved that all votes taken today from here on out are roll call vote. Including adjournment.

Mr. Allen said ok and asked for a second. Mr. Schopf seconded. Mr. Allen said we will do a roll call vote on that. Ms. Gaston said yes, please.

AYES (154894) Eric Connolly (9776), Alan Grattidge (4133), Philip C. Barrett (18352.5), Jonathon Schopf (18352.5), Preston Allen (856), Jean Raymond (1214), Kevin Tollisen (21535), Darren O'Connor (14765), Theodore Kusnierz (14728), Tara Gaston (13293), Matthew E. Veitch (13293), John Lawler (8423) John Lant (16173).

NOES (64713): Edward D. Kinowski (8287), Richard Lucia (6531), Willard H. Peck (5087), Daniel Pemrick (7775), Thomas Richardson (5196), Michael Smith (3545), Sandra Winney (1995), Thomas N. Wood, III (5674), Arthur M. Wright (2048), Benny Zlotnick (18575).

On a motion by Mr. Veitch, seconded by Mr. Wood Resolutions 163 through 179 with the exception of Resolutions 171 and 177 were adopted by a unanimous vote. It should be noted Mr. Kusnierz voted no on Resolution #168.

Mr. Wood made a motion to dispense with the reading of the following resolutions: 163, 164, 165, 174, 176, and 179. Mr. Smith seconded the motion. With a roll call vote, the motion was unanimously approved.

RESOLUTION 163 - 2020

Introduced by Supervisors Lucia, Connolly, Kusnierz, O'Connor, Winney, Wood and Zlotnick

AUTHORIZING THE CHAIRMAN TO ENTER INTO A CONTRACT WITH REJHA GROUP, LLC TO PROVIDE TRANSPORTATION SERVICES FOR PRESCHOOL CHILDREN WITH SPECIAL NEEDS

WHEREAS, proposals were solicited for a contract for the transportation of children with special needs in our Pre-School Special Education and Early Intervention Programs with services to commence on September 1, 2020; and

WHEREAS, as a result of the ongoing COVID-19 pandemic, and the unknown impact of anticipated regulations from the New York State Department of Health regarding transportation safety measures, social distancing, the number of children allowed per bus, and consequently the number of buses and aides needed, the County's Request for Proposals provided that in the event any state laws, regulations and executive orders regarding COVID-19 increase or decrease the number of children that can be transported in any vehicle, the contractor selected and the County agree to re-negotiate pricing based on the contractor's good faith estimate of the change in the number of required vehicles; and

WHEREAS, our Health and Social Services Committee and the Director of the Youth Bureau have recommended that the bid of Rejha Group, LLC, the lowest bid received, be accepted; now, therefore, be it

RESOLVED, that the Chair of the Board is authorized and directed to execute an agreement with Rejha Group, LLC of Albany, New York for the transportation of children with special needs, for a term of three years, commencing on September 1, 2020, at the following rates:

2020-2021 School Year and 2021 Summer	\$65.29 per child per day	\$89.63 per aide per day
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2021-2022 School Year and 2022 Summer \$69.86 per child per day \$95.90 per aide per day

2022-2023 School Year and 2023 Summer \$74.75 per child per day \$102.90 per aide per day;

and, be it further

RESOLVED, that in the event any new State laws, regulations or Executive Orders regarding COVID-19 increase or decrease the number of children that can be transported in any vehicle, Rejha Group, LLC and the County agree to re-negotiate pricing based on Rejha Group, LLC’s good faith estimate of the change in the number of required vehicles; and, be it further

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

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 164 - 2020

Introduced by Supervisors Lucia, Connolly, Kusnierz, O’Connor, Winney, Wood and Zlotnick

AUTHORIZING THE CHAIR TO ENTER INTO ADDITIONAL 2020 SUBCONTRACTS FOR THE OFFICE FOR THE AGING

WHEREAS, the Saratoga County Office for the Aging provides programs to some elderly County residents under Title III of the Federal Older Americans Act of 1965, as amended, and the State Community Services Act of 1979 (Executive Law, Article 19-J); and

WHEREAS, pursuant to Resolution 234-2019, this Board authorized and directed the Chair and/or the Director of our Office for the Aging to sign the 2020-2021 Annual Implementation Plan, its attached funding applications and subcontracts which including subcontracts for respite care services for seniors; and

WHEREAS, our Office for the Aging wishes to increase the number of agencies it has under contract to provide in-home respite care services due to a national shortage of in-home respite caregivers, and thereby ensure that its in-home respite caregiver pool is sufficient to meet current and anticipated demand by Saratoga County seniors 60 years of age and over; now, therefore, be it

RESOLVED, that the Chair of the Board and/or the Director of our Office for the Aging are authorized to sign the following subcontracts, with the form and content thereof being subject to the approval of the County Attorney:

<u>PROVIDER</u>	<u>FUNDING</u>	<u>SERVICE</u>	<u>TERM</u>	<u>AMOUNT</u>
Greater Adirondack Home Aides 25 Willowbrook Rd, #4 Queensbury, NY 12804	IIIE	In-Home Respite Care	9/1/20-12/31/20	\$24.00/hour
NEC Care, Inc. Home Instead Senior Care 12 Mountain Ledge Dr., #3 Gansevoort, NY 12831	IIIE	In-Home Respite Care	9/1/20-12/31/20	\$24.00/hour

BUDGET IMPACT STATEMENT: No budget impact

RESOLUTION 165 - 2020

Introduced by Supervisors Lucia, Connolly, Kusnierz, O’Connor, Winney, Wood and Zlotnick

AUTHORIZING THE ACCEPTANCE OF CORONAVIRUS PREPAREDNESS AND RESPONSE SUPPLEMENTAL APPROPRIATIONS ACT FUNDING ADMINISTERED THROUGH THE AGING AND DISABILITY RESOURCE CENTER COVID-19 PROGRAM, AND AMENDING THE 2020 COUNTY BUDGET IN RELATION THERETO

WHEREAS, federal legislation passed in response to the ongoing COVID-19 pandemic, known as Coronavirus Preparedness and Response Supplemental Appropriations Act includes funding to localities for the purchase of COVID-19 safety and preventative supplies for seniors 60 years and over in Saratoga County; and

WHEREAS, the Aging and Disability Resource Center (“ADRC”) operates a Covid-19 Program and has advised our County Office for the Aging that the County is eligible to receive ADRC funding under the Coronavirus Preparedness and Response Supplemental Appropriations Act in the amount of \$40,015 for the purpose of purchasing COVID-19 safety and preventative supplies for Saratoga County seniors; and

WHEREAS, the approval of this Board of Supervisors and an amendment to the 2020 Saratoga County Budget is needed to accept these Coronavirus Preparedness and Response Supplemental Appropriations Act funds through ADRC; now, therefore, be it

RESOLVED, that the Saratoga County Board of Supervisors hereby accepts Coronavirus Preparedness and Response Supplemental Appropriations Act funding in the amount of \$40,015 allocated through the Aging and Disability Resource Center COVID-19 Program for the purpose of purchasing COVID-19 safety and preventative supplies for seniors 60 years and older in Saratoga County; and be it further

RESOLVED, that the Chair of the Board is hereby authorized to execute any and all agreements and documents needed to accept said \$40,015 in Coronavirus Preparedness and Response Supplemental Appropriations Act funding from the Aging and Disability Resource Center’s COVID-19 Program; with the form and content of such agreements and documents to be subject to the approval of the County Attorney; and be it further

RESOLVED, that the 2020 Saratoga County Budget is hereby amended as follows:

OFFICE FOR THE AGING:

Appropriations:

Increase Acct.: #A.76.763-8200 Departmental Supplies \$40,015

Revenues:

Increase Acct.: #A.76-4484 Federal Aid – COVID-19 Stimulus \$40,015

BUDGET IMPACT STATEMENT: No budget impact. 100% Federal Aid

RESOLUTION 166 - 2020

Introduced by Supervisors Lucia, Connolly, Kusnierz, O’Connor, Winney, Wood and Zlotnick

AUTHORIZING THE CHAIR TO EXECUTE A CONTRACT WITH NORTHEAST DINING & LODGING, INC. D/B/A GOLDEN CORRAL FOR THE ELDERLY NUTRITION PROGRAM

WHEREAS, our Office for the Aging conducts the Saratoga County Senior Nutrition Program which provides congregate meals as well as Home Delivered meals to senior citizens in Saratoga County; and

WHEREAS, pursuant to Resolution 130-2017, this Board authorized an agreement with Northeast Dining & Lodging, Inc. d/b/a Golden Corral for the provision of meals for the Saratoga County Senior Meals Program for the term June 1, 2017 through December 31, 2020 at a cost of \$7.15 per meal from June 1, 2017 through December 31, 2017, subject to an annual increase commencing on January 1, 2018, and on every January 1 thereafter during the term of the agreement, equal to any increase in the August Consumer Price Index for Urban Consumers as reported in August of the preceding year; and

WHEREAS, bids were solicited for vendors to supply meals for the Office for the Aging’s Saratoga County Senior Meals Program for the term January 1, 2021 through December 31, 2024, and Northeast Dining & Lodging, Inc. d/b/a Golden Corral was the sole bidder; now, therefore, be it

RESOLVED, that the Chair of the Board is authorized to execute an agreement with Northeast Dining and Lodging, Inc. d/b/a Golden Corral of 17 Old Gick Road, Saratoga Springs, New York, for the provision of meals for the Saratoga County Senior Meals Program for the term January 1, 2021 through December 31, 2024, at a cost of \$7.88 per meal, subject to an annual increase commencing on January 1, 2022, and on every January 1 thereafter during the term of the agreement, equal to any increase in the August Consumer Price Index for Urban Consumers as reported in August of the preceding year; with the form and content of such agreement being subject to the approval of the County Attorney.

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 167 - 2020

Introduced by Supervisors Lucia, Connolly, Kusnierz, O'Connor, Winney, Wood and Zlotnick

AUTHORIZING AN AGREEMENT WITH HEALTH RESEARCH, INC. TO ACCEPT A NEW YORK STATE DEPARTMENT OF HEALTH PUBLIC HEALTH EMERGENCY PREPAREDNESS PROGRAM GRANT

WHEREAS, continued funding is available from the New York State Department of Health ("NYS DOH") through Health Research, Inc. in an amount up to \$384,972 for Public Health Emergency Preparedness Program activities for the period July 1, 2020 through June 30, 2021; with \$184,972 immediately available to Saratoga County Public Health Services for reimbursement of expenditures for Public Health Emergency Preparedness Program activities and \$200,000 restricted by NYS DOH for use only in the event of a public health emergency; and

WHEREAS, a Resolution of this Board is required to accept these funds; now, therefore, be it

RESOLVED, that the Chair of the Board is authorized to execute all documents and agreements necessary with Health Research, Inc. to accept New York State Department of Health Public Health Emergency Preparedness Program grant funds in an amount up to \$384,972 for the term July 1, 2020 through June 30, 2021, with the form and content of such documents and agreements to be subject to the approval of the County Attorney.

BUDGET IMPACT STATEMENT: No budget impact.

It should be noted Mr. Kusnierz voted No on this Resolution.

RESOLUTION 168 - 2020

Introduced by Supervisors Wood, Grattidge, Lawler, Lucia, Peck, Winney and Wright

APPOINTING CATHLEEN MEDICK AS ACTING DIRECTOR OF PUBLIC HEALTH AND AUTHORIZING A TEMPORARY INCREASE IN HER COMPENSATION

WHEREAS, our Director of Public Health, Catherine Duncan, retired from her position with Saratoga County Public Health Services effective 7/31/20; and

WHEREAS, Cathleen Medick currently serves in the position of Director of Patient Services for Saratoga County Public Health Services; and

WHEREAS, maintaining continuity in our Public Health Department necessitates appointing an Acting Director of Public Health during the time required to hire someone to fill the new position of Commissioner of Public Health; now, therefore, be it

RESOLVED, that Cathleen Medick is appointed Acting Director of Public Health effective August 1, 2020 and continuing until such time as a new Commissioner of Public Health is appointed and assumes the duties of the position; and, be it further

RESOLVED, for fulfilling the additional duties and responsibilities of the position of Acting Director of Public Health, effective August 1, 2020 Cathleen Medick shall be compensated at the temporary rate of \$60.5427 per hour as a salaried employee until such time as a Commissioner of Public Health is appointed and assumes the duties of the position, after which Cathleen Medick shall return to her regular duties as Director of Patient Services at her previous rate of compensation for said position.

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 169 - 2020

Introduced by Supervisors Wood, Grattidge, Lawler, Lucia, Peck, Winney and Wright

AMENDING THE 2020 COMPENSATION SCHEDULE UNDER THE SHERIFF'S DEPARTMENT

WHEREAS, the Human Resources and Insurance Committee, the Director of Human Resources and the Saratoga County Sheriff have recommended that the 2020 Saratoga County Compensation Schedule be amended under Sheriff Department to reclassify one position of Records Management Clerk to Civil Clerk due to recent discovery law legislative changes which reduced the amount of records to be produced and increased the time for producing them, thereby eliminating the need for a position dedicated solely to discovery compliance; now, therefore, be it

RESOLVED, that the 2020 Saratoga County Compensation Schedule is amended effective as of August 21, 2020 as follows:

UNDER SHERIFF DEPARTMENT:

Reclassify (1) Records Management Clerk to (1) Civil Clerk

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 170 - 2020

Introduced by Supervisors Peck, Lant, Lawler, O'Connor, Raymond, Veitch and Wright

AUTHORIZING ACCEPTANCE OF A 2020 EMERGENCY MANAGEMENT PERFORMANCE COVID-19 SUPPLEMENTAL PROGRAM GRANT FROM THE NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

WHEREAS, a federal Emergency Management Performance COVID-19 Supplemental ("EMPG-S) Program Grant is available through the New York State Division of Homeland Security and Emergency Services in the amount of \$48,009, which funds may be utilized to prevent, prepare for, and respond to the COVID-19 public health emergency during the performance period from January 27, 2020 through July 31, 2021; and

WHEREAS, our Office of Emergency Services proposes to utilize these funds in reimbursement of the costs of face masks, protective gowns and thermometers previously purchased; and

WHEREAS, the acceptance of these grant funds requires this Board's approval; now, therefore, be it

RESOLVED, that the Chair of the Board is authorized to execute any and all documents necessary to apply for and accept a 2020 Emergency Management Performance COVID-19 Supplemental ("EMPG-S) Program Grant in the amount of \$48,009 from the New York State Division of Homeland Security and Emergency Services, with the form and substance of such documents being subject to the approval of the County Attorney.

BUDGET IMPACT STATEMENT: None. 100% Federal Aid.

Ms. Gaston said she could not in good conscience vote for this at this time. She understands the parcels up for auction is not a result of COVID and given the difficult time the members of our community are experiencing right now, she doesn't think we should be changing the procedure as has been for a number of years. So that's why she will be voting no on this. Thank you.

Mr. Allen asked for further discussion. Being none, he asked for a roll call vote.

On a motion by Mr. Wright, seconded by Mr. Pemrick Resolution 171 FAILED by the following vote:

AYES (89115) Eric Connolly (9776), Alan Grattidge (4133). Richard Lucia (6531), Preston Allen (856), Jean Raymond (1214), Michael Smith (3545), Daniel Pemrick (7775), Arthur M. Wright (2048), Thomas Richardson (5196), Benny Zlotnick (18575), Willard H. Peck (5087), Sandra Winney (1995), Thomas N. Wood, III (5674), Edward D. Kinowski (8287), John Lawler (8423).

NOES (130492): Philip C. Barrett (18352.5), Jonathon Schopf (18352.5), Kevin Tollisen (21535), Darren O'Connor (14765), Theodore Kusnierz (14728), Tara Gaston (13293), Matthew E. Veitch (13293), John Lant (16173).

RESOLUTION 171 – 2020 (FAILED)

Introduced by Supervisors Winney, Connolly, Lant, Schopf, Wood and Zlotnick

AMENDING THE COUNTY'S POLICY FOR THE REMOVAL OF AUCTION PARCELS AS IT PERTAINS TO THE FALL 2020 REAL PROPERTY AUCTION

WHEREAS, Resolution 166-96 established the County's policy for removing parcels from the list of tax foreclosed parcels scheduled for sale at the County's semi-annual real property auctions; and

WHEREAS, the removal policy established by Resolution 166-96 provides that a Supervisor may request up to two removals of a parcel located in the Supervisor's town from the auction list, with the first request to be approved without condition; and a second request to be approved upon the conditions that the Equalization and Assessment Committee, now known as the Real Property Tax Committee, approve the removal request and that the former owner pay the current year's taxes; and

WHEREAS, the County's real property auction scheduled for September 15, 2019 was canceled due to an insufficient number of parcels to sell, while the County's real property auction scheduled for March 19, 2020 was canceled due to the COVID-19 pandemic; and

WHEREAS, prior to the Real Property Tax Committee's cancellation of the March 19, 2020 auction, there were approximately eleven (11) first requests for removal approved for parcels on the auction list; and

WHEREAS, the Real Property Tax Committee has scheduled the County's next real property auction for November 17, 2020, which auction will accept bids both online and by a limited number of in-person bidders; and

WHEREAS, former owners who did not request a first removal of their parcel from the March 19, 2020 auction have essentially received an eight (8) month extension from March 19, 2020 to November 17, 2020 in which to pay their delinquent taxes, and it is therefore appropriate that all parcel removal requests received for the November 17, 2020 auction be deemed second requests for removal, except for those parcels for which a second removal request has previously been granted, thereby requiring former owners to: i) obtain the approval of the Real Property Tax Committee to the removal; and ii) to pay the 2020 taxes owed on the parcel; and

WHEREAS, our Real Property Tax Committee has recommended that the auction parcel removal policy established by Resolution 166-96 be amended only for the County's upcoming real property auction on November 17, 2020 by deeming all parcel removal requests received as second requests for removal, except for those parcels for which a second removal request was previously granted by the Real Property Tax Committee; now, therefore, be it

RESOLVED, that all parcel removal requests received for the County's Real Property Auction scheduled for November 17, 2020 shall be deemed second requests for removal, except for those parcels for which a second removal request was previously granted by the Real Property Tax Committee, therefore requiring the approval of the Real Property Tax Committee for removal and payment of the 2020 taxes owed on the parcel; and, be it further

RESOLVED, that the auction parcel removal policy set forth in Resolution 166-96 is accordingly amended only for the County's upcoming real property auction on November 17, 2020 by deeming all parcel removal requests received as second requests for removal, except for those parcels for which a second removal request was previously granted by the Real Property Tax Committee.

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 172 - 2020

Introduced by Supervisors Richardson, Barrett, Kusnierz, Lucia, Pemrick, Wright and Zlotnick

URGING CONGRESS TO PASS INTO LAW THE COMMITMENT TO VETERAN SUPPORT AND OUTREACH ACT

WHEREAS, County Veterans Service Officers (CVSO) provide significant work for veteran applicants to federal and state governments with no federal fiscal support; and

WHEREAS, the National Association of County Veterans Service Officers (NACVSO) supports the passage into law of a bill pending before the United State Congress known as the U.S. Commitment to Veteran Support and Outreach Act ("CVSO Act") which recognizes the important role of local veteran advocates and the lack of vital federal funding to provide services; and

WHEREAS, the CVSO Act proposes to provide \$250,000,000 to local CVSO agencies over a five (5) year period; and

WHEREAS, said funding will assist local CVSO agencies in promoting veteran health and wellness through coordination, implementation, and evaluation of comprehensive veteran suicide prevention and outreach programs; and

WHEREAS, funding will support additional staffing needs, training and accreditation of personnel and technology updates; and

WHEREAS, the proposed Commitment to Veteran Support and Outreach Act is supported by the National Association of Counties (NACo) and the National Association of County Veteran Service Officers (NACVSO); now, therefore, be it

RESOLVED, that the Saratoga County Board of Supervisors hereby strongly urges the United States Congress to pass into law the proposed U.S. Commitment to Veteran Support and Outreach Act; and, be it further

RESOLVED, that the Clerk of the Board shall forward copies of this Resolution to the Director of the Saratoga County Veterans Service Agency, local Veterans organizations, Congressman Paul Tonko, Congresswoman Elise Stefanik, Senator Charles Schumer and Senator Kirsten Gillibrand.

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 173 - 2020

Introduced by Supervisors Smith, Connolly, Gaston, Kusnierz, Lant, O'Connor and Veitch

URGING GOVERNOR CUOMO TO AUTHORIZE THE REOPENING OF SARATOGA CASINO HOTEL

WHEREAS, as a result of the public health threat presented by the COVID-19 pandemic, Governor Cuomo issued Executive Order 202 on March 7, 2020 declaring a State disaster emergency throughout New York State; and

WHEREAS, in furtherance of his authorized powers during a State disaster emergency, Governor Cuomo issued Executive Order 202.3 on March 16, 2020 directing all facilities authorized to conduct video lottery gaming or casino gaming to cease operation effective at 8:00 pm on March 16, 2020; and

WHEREAS, commencing with Executive Order 202.14, Governor Cuomo has extended his directed closure of video lottery gaming and casino gaming facilities several times, with Executive Order 202.55 being the latest Executive Order to extend the directed closure through September 4, 2020; and

WHEREAS, Saratoga Casino Hotel is one of the leading entertainment venues in the Capital District, hosting over 1.8 million visitors annually until the COVID-19 pandemic; and

WHEREAS, the video lottery gaming facilities of Saratoga Casino Hotel have been closed since March 16, 2020 pursuant to the Governor's Executive Orders, while Native American casinos in New York and neighboring states are operating; and

WHEREAS, Saratoga Casino Hotel has developed a multi-layered "Safe Bet" plan to implement physical as well as policy and procedural changes to protect the health and safety of employees and guests, which plan follows all guidelines set forth by the Center for Disease Control and the New York State Department of Health and assumes the facility will be opening with capacity limitations to be established by the State; and

WHEREAS, Saratoga Casino Hotel's Safe Bet plan focuses on preventing the spread of the COVID-19 virus through heightening standards in cleanliness and sanitation; installation of MERV-13 air filters; enforcing social distancing with floor guides; installing plexiglass barriers; taking every other video lottery terminal out of service; requiring face masks; conducting temperature checks and health screening upon entry; and having ID scanners available for contact tracing purposes if needed; and

WHEREAS, since its directed closure, Saratoga Casino Hotel has furloughed over 400 employees, who received salary and wages for two weeks and were covered by their employer's health insurance through July 31, 2020, after which employer health insurance was cancelled for 85 non-union furloughed employees, with another 205 furloughed union employees scheduled to lose their health insurance on September 30, 2020 if the Casino remains closed; and

WHEREAS, the continued closure of Saratoga Casino Hotel has significantly impacted harness racing at the facility, as 90% of the harness purses are earned through a percentage of video gaming revenues, and the absence of such revenues has resulted in the reduction of purses for the harness horsemen by 40% and a decrease in the number of weekly racing days from 4 to 3; and

WHEREAS, the current purse account for harness horsemen is paying out approximately \$130,000 per week, and without the return of video lottery revenue the account is expected to be depleted by the end of September, putting live racing at Saratoga Casino Hotel in jeopardy of being canceled; and

WHEREAS, since opening in 2004, the Casino has contributed 48% of their total gaming revenues to New York State Education on a weekly basis, contributing 1 billion dollars to support education across the State; and

WHEREAS, since opening, the Casino has spurred economic activity by contributing over \$28 million to the City of Saratoga Springs, and \$9 million to the County of Saratoga; and

WHEREAS, State-issued guidance has categorized video lottery gaming as a non-essential business, yet the business Saratoga Casino Hotel conducts is essential to the financial well-being of its employees and their families as well as the harness horsemen community; and

WHEREAS, the risk of contracting COVID-19 at Saratoga Casino Hotel is no greater than the risk presented to patrons of a Native American casino in New York or a neighboring state; and

WHEREAS, it will never be known whether video lottery gaming and casino gaming facilities in New York State can be safely opened and operated in New York State until they are allowed to open under strict safety protocols; now, therefore, be it

RESOLVED, that the Saratoga County Board of Supervisors hereby expresses its full support of Saratoga Casino Hotel's "Safe Bet" plan, and urges Governor Andrew M. Cuomo in the strongest terms possible to authorize the reopening of Saratoga Casino Hotel subject to strict compliance with the safety protocols set forth in its Safe Bet plan; and be it further

RESOLVED, that the Clerk of the Board forward a copy of this Resolution to Governor Andrew M. Cuomo, Senate Majority Leader Andrea Stewart-Cousins, Senate Minority Leader Robert Ort, Assembly Speaker Carl Heastie, Assembly Minority Leader William Barclay, Senator James Tedisco, Senator Daphne Jordan, Assemblywoman Mary Beth Walsh, Assemblyman John McDonald, Assemblywomen Carrie Woerner, and Assemblyman Dan Stec.

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 174 - 2020

Introduced by Supervisors Lawler, Kinowski, Pemrick, Raymond, Richardson, Schopf and Tollisen

AUTHORIZING THE CHAIR TO ENTER INTO THE NECESSARY AGREEMENTS TO APPLY FOR, ACCEPT AND ADMINISTER A 2020/2021 NEW YORK STATE SNOWMOBILE GRANT-IN-AID PROGRAM GRANT

WHEREAS, on an annual basis since 1994, this Board has authorized acceptance of State aid for the maintenance of snowmobile trails and the administration of such aid by the Saratoga County Association of Snowmobile Clubs (Association); and

WHEREAS, the Association has requested that Saratoga County apply for a 2020/2021 New York State Snowmobile Grant-In-Aid Program Grant in an amount up to \$89,000, and to serve as a conduit between the State and the Association for the distribution of grant funds; and

WHEREAS, the Association has submitted to our Economic Development Committee a list of the trail mileage planned for each snowmobile club within the County and the Committee has approved said list; now, therefore, be it

RESOLVED, that the Chair of the Board execute all appropriate documents for application for, acceptance and receipt of a 2020/2021 State Snowmobile Grant-In-Aid Program Grant not to exceed \$89,000 and for its administration by the Saratoga County Association of Snowmobile Clubs; and it is further

RESOLVED, that the County Auditor is authorized to approve payment of the actual grant funds to the Association for use in the development of locally maintained snowmobile trails throughout the County; and it is further

RESOLVED, that the expenditure of grant funds is subject to receipt of Certificates of Insurance from each participating snowmobile club in the appropriate form and content as required by the County.

BUDGET IMPACT STATEMENT: None. The program is grant funded, and all funding is passed through to the Snowmobile Clubs.

RESOLUTION 175 - 2020

Introduced by Supervisors Lawler, Kinowski, Pemrick, Raymond, Richardson, Schopf and Tollisen

AMENDING THE ZIM SMITH TRAIL CAPITAL ACCOUNT

WHEREAS, Resolution 151-2018 amended the 2018 County Budget to appropriate \$4,557,000 from the Zim Smith Capital Account for the construction of the extension of the Zim Smith Trail from Coons Crossing Road in the Town of Halfmoon to the Elizabeth Street Extension in the City of Mechanicville, and recognized receipt of a \$250,000 grant from the New York State Office of Park, Recreation and Historic Preservation (“OPRHP”) for the construction of the Trail extension; and

WHEREAS, OPRHP later notified the County that it was actually receiving a \$500,000 Environmental Protection Fund (“EPF”) matching fund grant, which EPF grant was accepted pursuant to Resolution 281-2018; and

WHEREAS, it is now necessary to recognize receipt of the additional \$250,000 in EPF grant funds and to amend the Zim Smith Capital Account to provide funding for various projects related to the completion of Trail extension, including signage and striping; now, therefore, be it

RESOLVED, that the Zim Smith Trail Capital Account is amended as follows:

PLANNING:

Appropriations:

Increase Acct. #: HG.80.100-7092 Infrastructure \$ 250,000

Revenue:

Increase Acct. #: HG.80-3903 State Aid-NYS Parks \$ 250,000

BUDGET IMPACT STATEMENT: None. The additional \$250,000 in funding is 100% State aid.

RESOLUTION 176 - 2020

Introduced by Supervisors Lawler, Kinowski, Pemrick, Raymond, Richardson, Schopf and Tollisen

SETTING A PUBLIC HEARING FOR THE REVIEW OF SARATOGA COUNTY CONSOLIDATED AGRICULTURAL DISTRICT #1 PURSUANT TO AGRICULTURE AND MARKETS LAW SECTION 303-A

WHEREAS, pursuant to Resolution 176-96, the Saratoga County Board of Supervisors approved the consolidation of Saratoga County Agricultural Districts #1, #3 and #4 into Saratoga County Consolidated Agricultural District #1 encompassing all or portions of the Towns of Moreau, Northumberland, Saratoga, Stillwater and Wilton; and

WHEREAS, on the petitions of interested landowners, this Board has modified the boundaries of Saratoga County Consolidated Agricultural District #1 on several occasions to include parcels owned by the requesting landowners within the District’s boundaries, with the last such modification being pursuant to Resolution 77-2017; and

WHEREAS, Agriculture and Markets Law §303-a requires this Board of Supervisors to conduct a review of Saratoga County Consolidated Agricultural District #1 every eight (8) years, and to make a determination whether the District should be continued, terminated or modified; and

WHEREAS, the Saratoga County Agriculture Farmland Protection Board and the Saratoga County Planning Board have recommended that Saratoga County Consolidated Agricultural District #1 be continued with modifications to its map boundaries to incorporate assessment information contained in the Saratoga County 2020 tax rolls; and

WHEREAS, as part of its review process, this Board must hold a public hearing as required by Agriculture and Markets Law §303-a(2)(c), and receive public comment on any proposed modifications of the District’s boundaries, and any recommendations of the Saratoga County Agricultural and Farmland Protection Board; now, therefore, be it

RESOLVED, that this Board of Supervisors shall hold a public hearing pursuant to Agriculture and Markets Law §303-a in conjunction with the Board’s eight (8) year review of Saratoga County Consolidated Agricultural District #1, with said public hearing to be held on September 9, 2020 at 4:20 p.m. in the Meeting Room of the Saratoga County Board of Supervisors at 40 McMaster Street, Ballston Spa, New York; and be it further

RESOLVED, due to public health and safety concerns related to COVID-19, and in accordance with Governor Cuomo's Executive Order 202.1, as last extended by Executive Order 202.55, public comment will be received via email to: publiccomment@saratogacountyny.gov, or by written correspondence addressed to: Clerk of the Board, Saratoga County Board of Supervisors, 40 McMaster Street, Ballston Spa, NY, 12020, which public comment must be received by September 9, 2020 at 4:20 pm; and, be it further

RESOLVED, that the Clerk of the Board shall publish a notice of this public hearing in the official County newspapers; and, be it further

RESOLVED, that the Clerk of the Board shall post the notice of this public hearing on the home page of the County of Saratoga's website; and

RESOLVED, that the Clerk of the Board shall mail a copy of the notice of public hearing to the Towns of Moreau, Northumberland, Saratoga, Stillwater and Wilton, to the New York State Commissioner of Agriculture and Markets, and to those landowners whose land is the subject of proposed modifications to the boundaries of Saratoga County Consolidated Agricultural District #1.

BUDGET IMPACT STATEMENT: No budget impact.

On a motion by Mr. Kinowski, seconded by Mr. Zlotnick, Resolution 177 was adopted by the following vote:

AYES (206314) Eric Connolly (9776), Alan Grattidge (4133), Philip C. Barrett (18352.5), Jonathon Schopf (18352.5), Richard Lucia (6531), Preston Allen (856), Jean Raymond (1214), Michael Smith (3545), Daniel Pemrick (7775), Arthur M. Wright (2048), Kevin Tollisen (21535), Darren O'Connor (14765), Thomas Richardson (5196), Benny Zlotnick (18575), Theodore Kusnierz (14728), Willard H. Peck (5087), Sandra Winney (1995), Thomas N. Wood, III (5674), Matthew E. Veitch (13293), Edward D. Kinowski (8287), John Lawler (8423), John Lant (16173).

NOES (13293): Tara Gaston (13293).

RESOLUTION 177 - 2020

Introduced by Chairman Allen

APPOINTING A COMMISSIONER OF THE SARATOGA LAKE PROTECTION AND IMPROVEMENT DISTRICT

WHEREAS, pursuant to Chapter 460 of the Laws of 1986, the five Commissioners of the Saratoga Lake Protection and Improvement District are appointed by the Board of Supervisors;
and

WHEREAS, Cristina Connolly has resigned her position as Commissioner at Large for the Saratoga Lake Protection and Improvement District; and

WHEREAS, the Saratoga Lake Protection and Improvement District has met with several candidates interested in fulfilling the unexpired term of Christina Connolly as Commissioner at Large, and the District has recommended that this Board appoint Victor Mazzotti to fulfill said unexpired term; now, therefore, be it

RESOLVED, that the following individual is appointed as Commissioner of the Saratoga Lake Protection and Improvement District for the stated term:

<u>Name</u>	<u>Municipality</u>	<u>Prior Resolution</u>	<u>Term Expires</u>
Victor Mazzotti 2 Stone Creek Dr. Stillwater, NY 12170	Commissioner At Large	Res. 8-2019	12/31/21

BUDGET IMPACT STATEMENT: No budget impact.

RESOLUTION 178 - 2020

Introduced by Supervisors Pemrick, Kinowski, Kusnierz, Schopf, Tollisen, Winney and Wright

AUTHORIZING ACCEPTANCE OF A GRANT FROM THE WILLIAM G. POMEROY FOUNDATION AND AMENDING THE 2020 COUNTY BUDGET IN RELATION THERETO

WHEREAS, the County Historian applied for and was awarded a grant in the amount of \$1,100 from the William G. Pomeroy Foundation for the purpose of purchasing and erecting an historic marker on the property of the LaRue Family Farm in the Town of Charlton to recognize Joseph LaRue, who came to Saratoga County in 1774 and became one of the earliest Justices of the Peace for the County in 1792; and

WHEREAS, the LaRue Family Farm is still owned by Joseph LaRue’s descendants; and

WHEREAS, the acceptance of this William G. Pomeroy Foundation grant requires this Board’s approval and an amendment to the 2020 Saratoga County Budget; now, therefore, be it

RESOLVED, that the Chair of the Board is authorized to execute any documents with the William G. Pomeroy Foundation needed to accept a grant in the amount of \$1,100 for the purchase of an historic marker recognizing Joseph LaRue, who came to Saratoga County in 1774 and became one of the earliest Justices of the Peace for the County in 1792; and, be it further

RESOLVED, that the 2020 County Budget is amended as follows:

BOARD OF SUPERVISORS

Appropriations:

Increase Acct. # A.11.111-7099 Other Capital Expense \$1,100

Revenues:

Increase Acct. # A.11-1689 Other Income \$1,100

BUDGET IMPACT STATEMENT: None. 100% Local Aid.

RESOLUTION 179 - 2020

Introduced by Supervisors Pemrick, Kinowski, Kusnierz, Schopf, Tollisen, Winney, and Wright

SETTING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING THE PROPOSED INCREASE IN THE MAXIMUM ESTIMATED COST OF THE REGIONAL BIOSOLIDS DIGESTER FACILITY TO BE CONSTRUCTED BY SARATOGA COUNTY SEWER DISTRICT NO. 1 IN COOPERATION WITH THE ALBANY COUNTY WATER PURIFICATION DISTRICT

WHEREAS, by proceedings heretofore duly had and taken pursuant to Article 5-A of the County Law, the Board of Supervisors of Saratoga County, New York (the “Board of Supervisors”), established a county sewer district designated and known as Saratoga County Sewer District No. 1, in said County (the "District"); and

WHEREAS, for a variety of technical and financial reasons, the District was unable to comply with new federal Title V air regulations pertaining to the incineration of sludge/biosolids at the District’s Wastewater Treatment Plant, and as a consequence thereof, terminated operations of the Plant’s sludge incinerator on March 20, 2016; and

WHEREAS, as a result of ceasing operations of its sludge incinerator, the District had to retain the services of a commercial hauler to remove, transport and dispose of sludge/biosolids from its Treatment Plant, which services are currently being provided pursuant to Resolution 137-2017 at a cost of \$90.76 per wet ton, plus a surcharge of \$10 per wet ton for each ton collected and transported above 430 wet tons per week; and

WHEREAS, as a result of discussions between officials from the New York State Energy Research and Development Authority (“NYSERDA”), the Albany County Water Purification District (“ACWPD”), and the District, NYSERDA, ACWPD and the District agreed in principle to commission a study to determine the feasibility of constructing and operating a regional biosolids digester facility, and to share the costs of performing said feasibility study in the following percentages: NYSERDA-50%, ACWPD-25%, and the District-25%; and

WHEREAS, pursuant to Resolution 135-2017, the Board of Supervisors authorized the execution of a cooperative agreement between the County of Albany, on behalf of the Albany County Water Purification District, and the County of Saratoga, on behalf of the District, to commission a feasibility study relative to the possible construction and operation of a regional biosolids digester facility, and to share the costs of the study in the foregoing percentages; and

WHEREAS, a feasibility study (the “Feasibility Study”) has been completed by Arcadis of New York, Inc., reviewed by the members of the Saratoga County Sewer District Commission and the Albany County Water

Purification District's Board of Commissioners, and filed with the Board of Supervisors pursuant to Section 268 of the County Law in relation to a proposed increase and improvement of the facilities of said District; and

WHEREAS, the Feasibility Study determined that the construction of a regional biosolids handling facility (the "Facility"), to be located at the existing site of the ACWPD North Wastewater Treatment Plant in the Village of Menands, would provide a long-term, cost-effective and environmentally friendly means for Albany and Saratoga Counties to dispose of sludge/biosolids, provide for energy recovery, and result in significant annual savings for both the ACWPD and the District; and

WHEREAS, the County of Saratoga and County of Albany entered into an Intermunicipal Agreement dated as of July 1, 2018 (the "Intermunicipal Agreement") to construct and operate the Facility, with each county to pay fifty percent (50%) of capital expenses and operations and maintenance expense; and

WHEREAS, the total maximum estimated cost of the Facility was originally determined to be \$48,500,000, as more fully described in the Feasibility Study and in the estimate of cost prepared in relation thereto, and the original plan of finance provided for the County and the County of Albany to each pay fifty percent (50%) of said estimated maximum cost, or \$24,250,000 each, with the County's \$24,250,000 portion of said estimated maximum cost proposed to be financed through issuance of bonds by Saratoga County on behalf of the District; and

WHEREAS, following a public hearing held on July 11, 2018, the Board of Supervisors previously determined, pursuant to Resolution 170-2018, that it is in the public interest of the people of the County of Saratoga residing within the boundaries of the District to proceed with the expenditure for the District's 50% share of the cost for construction of the Facility at a maximum estimated cost of \$24,250,000; and

WHEREAS, due to certain changes in the Facility design, the estimated maximum cost of the Facility has increased from \$48,500,000 to \$56,000,000, with the County's portion of said estimated maximum cost increasing from \$24,250,000 to \$28,000,000; and

WHEREAS, the County's \$28,000,000 portion of said estimated maximum cost is proposed to be financed through issuance of bonds by Saratoga County on behalf of the District; and

WHEREAS, as a result of the increase in the estimated maximum cost of the Facility, the annual net cost to the typical property in the District is now estimated to be \$4.39; and

WHEREAS, the Board of Supervisors now desires to call a public hearing regarding the proposal to construct the Facility at the increased estimated maximum cost described above.

NOW, THEREFORE BE IT

RESOLVED, that pursuant to the provisions of County Law §§254 and 268, a public hearing be and the same hereby is called upon the proposal by Saratoga County Sewer District No. 1 to construct the Facility, in cooperation with the Albany County Water Purification District, at an increased estimated maximum cost of \$56,000,000, with the County's 50% share being \$28,000,000, and at an estimated annual net cost of \$ \$4.39 to the typical property in the District; said public hearing to be held on September 9, 2020 at 4:25 p.m. at the Chambers of the Saratoga County Board of Supervisors, 40 McMaster Street, in the Village of Ballston Spa, New York; and be it further

RESOLVED, that the Clerk of the Saratoga County Board of Supervisors is hereby authorized and directed to cause a notice of said public hearing to be published at least once, the first publications thereof to be not less than ten (10) days nor more than twenty (20) days before the date set therein for the public hearing, in "The Saratogian" and "The Daily Gazette", each of said newspapers having been designated the official newspapers of the County for such publication; and, be it further

RESOLVED, that this Resolution shall take effect immediately.

BUDGET IMPACT STATEMENT: No budget impact.

Mr. Allen asked if there was any other business to come before us today.

Mr. Kusnierz said Mr. Chairman. He'd like to offer a resolution rescinding the at will appointment of the County Administrator Spencer Hellwig effective immediately and move for its adoption.

Mr. Allen asked if there was a second.

Mr. Lant said Mr. Chairman I second that motion.

Mr. Allen asked for discussion.

Mr. Peck asked if the provider of that motion wanted to discuss anything first.

Mr. Kusnierz said he will let the motion stand as is and allow the body to discuss at will.

Mr. Lawler asked if the motion could be repeated. Mr. Kinowski said please.

Mr. Kinowski said if I may Mr. Chairman I'd like someone to explain to me what the best understanding of the motion that was read.

Mr. Lawler said he would just like the motion read. He didn't quite get the motion and asked for the motion to be re-stated.

Mr. Kusnierz asked if the Clerk of the Board have it or should he repeat the motion.

Ms. Wright said what she had written is that Supervisor Kusnierz made a motion to offer a resolution to remove the County Administrator effective immediately.

Mr. Kusnierz said that's it in a nutshell; but what he specifically said was that he would like to offer a resolution rescinding the at will appointment of the County Administrator Spencer Hellwig effective immediately and move for its adoption.

Mr. Allen said he needed a motion to add this to the agenda.

Mr. Dorsey said under Rule 15 a motion under miscellaneous business has to be added to the agenda. First you have to vote to have it added to the agenda and then there will be a vote on the item itself.

Mr. Kusnierz said that he would rescind his initial motion and move that we offer the following resolution to today's agenda. He asked if he should read it again. He said he shall read it again. He asked that the motion as follows be added to today's agenda and that resolution is: rescinding the at will appointment of County Administrator Spencer Hellwig effective immediately and move for its adoption.

Mr. Allen asked for a second.

Mr. Lant said he seconded that.

Mr. Allen asked for discussion on that motion.

Mr. Lawler suggested that this motion is inappropriate given the fact that it is without a doubt the most severe action that this Board can possibly take. There has been no discussion of this action at any committee meetings. This motion has not come before Law & Finance as motions traditionally do. Given the fact also that no supervisor has had a chance to consider which I would hope if this resolution goes forward what grounds for the termination would be and no one has had an opportunity to consider that. He thinks this motion is inappropriate for this meeting simply because it has not been discussed as a normal motion would. This motion is much more serious with, what he thinks disastrous consequences for the County and he thinks it would be more appropriate if the Board had an opportunity to consider this motion as the Board would any other motion that would come before us.

Mr. Allen asked if there was any further discussion.

Mr. Wood said likewise he thinks it is inappropriate for the Board to give consideration for this proposed resolution at this time because there is a process that has been established in our employee handbook. We haven't begun to look at the process or perform any of the steps that would be logical or spelled out in the handbook. This is totally inappropriate and should not be considered.

Mr. Kinowski said he concurred with statements made by Mr. Lawler and Mr. Wood. He has been going on eleven years and he's never heard of such a thing in his life. It seems like we are constantly being surprised by introductions of motions and resolutions during odd times and odd places. Without discussion and without vetting it through a system that we have been so capable of doing. Not only that we enjoy the fruits of it as it gives a full

opportunity for everybody to input including the general public. This is not being afforded that opportunity. He concurs with both of his colleagues.

Mr. Lucia said he agrees with Supervisor Wood wholeheartedly.

Mr. Peck asked if he could approach the visitor's speaker so he could stand while he speaks.

Mr. Allen said go ahead.

Mr. Peck said he isn't sure whether this is the time and will reserve his comments until we open it up for the motion on the floor. This is just the motion to add the item to the agenda.

Mr. Lawler said one other thing, please. He is really disappointed in a sense that we are about to consider a motion, and obviously the votes are there to put this on the agenda. He thinks that is a forgone conclusion. We are about to consider a motion to terminate a county employee, 32 years, he has served this County with great distinction. Admirably to serve this County. 32 years of service. We are going to consider a motion without any chance for him to even know why he's being terminated. No opportunity to defend himself. No opportunity to be aware of why this motion is on the floor. I think it is the height of injustice to a 32-year employee to terminate him without even so much as a conversation and an opportunity for him to defend himself. This motion will go forward and all probability Mr. Hellwig will be terminated today. We heard earlier from his attorney that an action like that would be arbitrary and capricious. And he thinks moving forward without an opportunity for him to defend himself, to step outside of the County's discipline process is in fact the definition of arbitrary and capricious. Let's move forward and let's prepare the County for a lawsuit over what is a political vendetta.

Mr. Peck said he would comment on this for a couple of things. For his clarification so when he reads newspaper reports and various conversations from individuals speaking on behalf of the Corridor, I want to be clear when I mention the Northway Corridor this is who I am speaking about. So this is who I believe is the Northway Corridor. If I mention a name and you are not part of the Northway Corridor than you can correct me. I just want to know when I do my statements on the next portion. He has Clifton Park, Supervisor Barrett. Mr. Barrett said here. Mr. Peck said Clifton Park Supervisor Schopf. Mr. Schopf said yes. Mr. Peck said Town of Halfmoon, Supervisor Tollisen. Mr. Peck said Supervisor Tollisen just so I am clear going forward are you a member of the Northway Corridor Organization. Mr. Tollisen said Bill you know that I am. You know I have signed letters to that effect. He said he didn't know why we are exercising this but go right ahead. Mr. Peck said he wanted to make sure we are clear as sometimes reports are buried and there are different speakers who are having conversations on behalf of the Corridor so he just wanted to make sure. Mr. Peck said Malta Supervisor O'Connor. Mr. O'Connor said yes. Mr. Peck said Moreau Supervisor Kusnierz. Mr. Kusnierz said yes he is and that is not the motion on the table and has nothing to do with the Northway Taskforce. He added he would accommodate Mr. Peck. Mr. Peck thanked him and said Supervisor Saratoga Springs Veitch. Mr. Veitch said sure. Mr. Peck said Supervisor of Saratoga Springs Gaston. Ms. Gaston said with the note that the Task Force was formed for the purpose of public health and not actually an organization with any authority for any individual to speak on behalf of the other, yes. Mr. Peck said Supervisor from Wilton Lant. Mr. Lant said yes. Mr. Peck said he wanted to be sure as we went into the next version. He asked if he was missing anyone. Those were the active members. He said he would make a couple of comments here and then we can move on. We have members of the Saratoga County Board of Supervisors that have attacked the administration in a systematic fashion to destabilize and undermine work necessary to save lives during a pandemic for their own political gain. We have yet to understand there are no winners during a pandemic. It began the first week as a desire for the spotlight for which we buffed in favor of having our health care professionals speak on our behalf of Saratoga County. The campaign of retaliation began starting with the self-proclaimed Northway Corridor Task Force to disseminate information. This quickly turned to shifting positions and ever-changing demands. This has been a highly functioning board for decades. The scheme to bring Albany state political tactics to divide and conquer Saratoga County has brought great shame upon this once proud institution. The ideal of public service was instilled in me at a very young age by my deceased mother. I can't fathom the motivation that has driven this group to follow the path to destruction. I've witnessed on a daily basis the fine individuals who have given their all on behalf of the citizens of Saratoga County. These are the individuals working for Saratoga County. The folks back here. They are the front lines of the pandemic; public nurses, director and staff leading our command center; emergency services department and all that comes with developing and implementing emergency preparedness plans all while overseeing and assisting County EMS, Fire and Safety Department; the Sheriff and his staff of personnel including road patrol and corrections. And lastly he will group together the various departments administration and human resources that

keep Saratoga operating and providing the necessary services to residents on a daily basis in the mix of this national pandemic. Putting themselves and their families in harm's way to overcome this horrific situation we currently find ourselves in. If any missteps have occurred, it is not from a lack of effort or bad faith. We are experiencing a time never seen before in our lifetime. Hundreds of decisions are made on a daily basis here. Most are exceptional. Some others we would like to have back. And for the often discussed pay situation some missteps of communication may have occurred. But again none were intentional or of bad faith. Under constantly changing positions, by a group on attack on our own Board, our administration has been and continues to be under great pressure and stress trying to satisfy individual desires that could not be satisfied. Being distracted from the tasks on hand and that of savings life in a pandemic. The ongoing assaults on our administration that they have endured, I am deeply sorry and offer my sincerest apology that we as a Board have been unable to offer a workplace environment that has been earned and they deserve. A workplace that benefits all of the citizens of Saratoga County and allows them to focus their full attention on the monumental tasks at hand, dealing with the COVID-19 pandemic. He would like to know the causes, I know your motion is to put on the agenda to remove the at will appointment, but he would clearly like to get Attorney Neidl the opportunity to address the report that was issued out last week before any action is taken.

Ms. Gaston said point of information, County Attorney, is this discussion appropriate to the motion to add to the agenda or should it wait.

Mr. Dorsey said it should probably wait.

Ms. Gaston said thank you.

Mr. Peck said for the folks back there I apologize for what you are about to see.

Mr. Allen said there is a motion to add it to the agenda and it had a second. A roll call vote was called.

AYES (130492): Philip C. Barrett (18352.5), Jonathon Schopf (18352.5), Kevin Tollisen (21535), Darren O'Connor (14765), Theodore Kusnierz (14728), Tara Gaston (13293), Matthew E. Veitch (13293), John Lant (16173).

NOES (89115) Eric Connolly (9776), Alan Grattidge (4133), Richard Lucia (6531), Preston Allen (856), Jean Raymond (1214), Michael Smith (3545), Daniel Pemrick (7775), Arthur M. Wright (2048), Thomas Richardson (5196), Benny Zlotnick (18575), Willard H. Peck (5087), Sandra Winney (1995), Thomas N. Wood, III (5674), Edward D. Kinowski (8287), John Lawler (8423).

When Mr. Connolly's name was called it should be noted he added "for the record I was part of the Task Force. I did join well after it was created. I did feel like there was a need to kind of push back to get information that we were looking for as a collective Board. And I stand by that decision to be a part of that. I don't tie myself to any particular group. I try to weigh each item before the Board independently as I listen to my colleagues. I'm going to have to vote no on this. I believe we owe people a little bit of due process. This came upon us awfully fast. I know that I have had less than 24 hours to really consider this and I'd like more time myself before I remove somebody's position so I'm voting no."

Mr. Allen asked if there was a motion to adopt this resolution.

Mr. Kusnierz said he shall make that motion.

Mr. Allen asked if there was a second.

Mr. Lant said seconded.

Mr. Allen asked for discussion.

Mr. Kinowski asked to make statement please. He said to the general public and all the members present here today, this report was quite frankly released prematurely and without validation which is being discussed right now. I believe the latest documents distributed by our Board Clerk will provide that justification. Unfortunately general public didn't get to see them or hear them. So first and foremost when reading this report the full Board of Supervisors unanimously approved the overtime compensation as directed by the COVID-19 oversight group. Then, two days later, some supervisors from the Northway Group began badgering and criticizing the oversight

group about this decision. And all during the most critical time the Governor's Executive Order to mandatorily downsize our employees in and of itself a huge undertaking. Secondly, he states unequivocally that he supports the Chairman and the entire County executive staff for all they are doing under the stress of COVID requirements. Nonetheless trying to deal with subversive demands by certain Board members. The report covers one aspect of County business conducted at the most early start of the pandemic. "Increased compensation for physically present workers an action by COVID oversight group." Further, report was an "attorney client privilege document". This would imply that as a County Board representative that he had an opportunity to read, comprehend, meet with and ask questions of the attorney who wrote the report and then discuss with the Board members the merits of this one of many decisions. Well, he did not. This privilege was denied him and other supervisors by an unauthorized vote of the Board during the agenda session not the business session. The supervisors not present for this meeting were not notified there would be such a vote thus denying them the opportunity to express their opinion and vote. Further denying the people and the press the opportunity to hear or witness the discussion and vote. This vote was a violation of the County's Rules of the Board voted on at the beginning of every year to insure continuity for all County Legislative business. So why did this happen? Is this investigation really about one decision made by the COVID-19 group and validated by Board or about politics? The latter is at play here. He is disappointed with the principal supervisors behind the Northway group who are taking us down this ugly road in all the while we are in the middle of a pandemic. Yes, there is a report that raises opinions that the Board may have permitted illegal actions. The Board who approved the compensation and then the COVID Oversight Group had to implement all these employees' decisions while the union negotiations were still in progress. The County was rapidly downsizing, handling COVID matters and worse were being badgered by supervisors to reverse the decision. Folks, the report is not what is printed in the newspaper. Nor is the final say as to its stated opinions based on the authors opinions and represented facts. It is a 195-page report that has yet to be validated. For instance, the firm did not identify what authorities are afforded to the Chairman under published executive orders. This knowledge is most pertinent to all of the decisions made during the ongoing pandemic. Even the conclusions that the COVID group violated the Open Meetings Law is arguable. Further, Union negotiations were still in progress extremely limiting the flow of information among the unions, county leadership, board members and employees. Many of the reasons to declare executive orders is to enable rapid decisions and invoke immediate actions to handle the emergencies at hand. Having the full Board involved in making all these decisions is not practical. He has not witnessed this at both the Federal and State level. Have we not witnessed that? So before you start throwing rocks based on news articles filled with half-truths and unsubstantiated facts, please read the report. Once read, formulate questions, seek answers and then decide. Thank you Mr. Chairman.

Mr. Lawler asked Supervisor Kusnierz to please, if he would, he has a motion to terminate County Administrator Hellwig, he would like him to state his reasons for that.

Mr. Kusnierz said Mr. Chairman as he had indicated earlier when posed the question his comments relate specifically to the wording of the motion, allowed the body to debate it but he is not adding any further comment to the resolution.

Mr. Lawler said he wanted to be sure he understood this. You are offering a resolution to terminate a 32-year employee with exemplary service to this County the highest administration official in this County, you are offering a resolution to terminate him immediately and you won't say why. Mr. Lawler asked if that made sense to anyone here. Can anyone honestly support this resolution? We are going to fire a man with 32-years of service to this County and you're afraid to say why.

Mr. Kusnierz said the wording of afraid is your wording not mine.

Mr. Lawler said no that he was stating the facts. You refuse to say why you want to fire the man. He is asking him to say why he wants to fire him and you refuse to answer that question. So he's going to ask again anybody here want to explain to him why we are firing the County Administrator, a 32 year employee. If nobody here has the courage to back up that resolution with an explanation as to why, then shame on you. You may have the votes, but, shame on you. And the lawsuit that is sure to follow, you will have earned it. You will have earned it and the taxpayers of this County will end up paying.

Mr. Peck said pertaining to this since we don't have full sense of what the grounds are could, at this time, the attorney for the report, Neidl, just give us a brief update on his correction to the report today. Then I have a few questions for him.

Mr. Neidl said he did indeed send an email today to the Board Clerk for distribution to the full Board of Supervisors making a correction to my report. There was an error in my report, a legal error. In the latter portions legal discussions section of the report he talked about potential exposures under Labor Law section 198 special remedies for double or triple damages for nonpayment of wages; and also, potential penalties for violation of Section 193 which has to do with the process for taking deductions from wages to offset clerical errors of any sort. He is familiar with those sections, and he has worked with them before. He has defended cases in which allegations of underpayment of wages and those extraordinary remedies were sought for private sector clients. He is well aware of the grave risks associated with those statutes and violations thereof and proceeded with this analysis with that framework. In so doing, he stepped over something he should have noticed and didn't. That is in an earlier section of Article 6 of the Labor Law section 190 there is a definition, which in fact makes those remedies not applicable to government agencies. He did disclose this to the Board in today's email. So those exposures that are specific to those two sections of my legal analysis part of the report, in my view, (inaudible). He will take questions.

Mr. Peck thanked Mr. Neidl.

Ms. Gaston asked if Mr. Neidl was referring to sections D and E. Mr. Neidl replied yes. Ms. Gaston thanked him and said she wanted to be sure she had it correctly.

Mr. Peck said he wanted that on the record so that Mr. Neidl had the opportunity to address it publicly. Mr. Peck said to Mr. Neidl there was no finding of intentional of misconduct by Mr. Hellwig or Ms. McNamara or the administration in that document, correct.

Mr. Neidl said he was not in the position to know anyone's intentions, he is not a mind reader and he can only draw instances from actions, documents, and things like that. Conclusions saying a legal discussion does include the legality in my view to Mr. Hellwig and Ms. McNamara's participation in the COVID group nor do I think there was any misrepresentations of the Board or the Law & Finance Committee by them and would be covered by this policies. That is the essence of the conclusion seen in Section 5.

Mr. Peck said he wanted to reiterate his question. There was no finding that anyone intentionally attempted to withhold information from the Board. Mr. Neidl said correct (his voice trailed off and became inaudible)

Mr. Peck said the problems identified related largely to documentation and communication is that correct.

Mr. Neidl said documentation; I would say yes, that is definitely, undeniable that that was a significant part of what happened here.

Mr. Lawler thanked Mr. Neidl for coming to the meeting. He said in a newspaper article shortly after it was made public that you had requested me to be the liaison between your firm and Saratoga County regarding this matter; is that correct? You requested that I take on that role.

Mr. Neidl said yes and he could explain that.

Mr. Lawler said he could if he wanted to but he just wanted to be clear because there seem to be some confusion as to how he became involved in that report. Additionally there were accusations in the press that your report would be a "whitewash" as the internal report was said to be. It would be a whitewash because he was "managing the external report". So he wanted to ask you, sir, in front of everyone here today if he at any time impede, try to obstruct, give direction, did he do anything at any time that interfered with your report.

Mr. Neidl said not at all.

Mr. Lawler asked if he did anything but give him every bit of cooperation that you asked for. Mr. Neidl said yes. Mr. Lawler asked if at any time dispute or try to tell you not to put in to your report. Mr. Neidl said no. Mr. Lawler said in no way other than to provide a chain of communication between you and Saratoga County and when you asked him to provide him with emails did he not drive to Mr. Neidl's office and hand deliver to him every email that the internal investigation had collected. Mr. Neidl responded that Mr. Lawler had driven emails to his office. Mr. Lawler said he wanted to be on the record after having been accused publicly of interfering with

this investigation; after having his integrity publicly attacked; he wanted it on the record from Mr. Neidl himself that those accusations were completely untrue, completely unfair. He appreciates Mr. Neidl taking the time to be here to make certain that that information is now on the record. Thank you.

Mr. Neidl said he could add to that. The reason he reached out to Supervisor Lawler is when one does these investigations you have to establish an appropriate point of contact. It wasn't to collaborate on the investigation. In this case, early on, he determined that normally one would report to the Chief Executive. He knew that couldn't happen. The Administrator and the Chair had to be witnesses and it would not be appropriate to report to them. In late April he and his firm had read in the paper that Mr. Lawler had been appointed to a subcommittee to do an internal review. Mr. Neidl said he initiated contact with Mr. Lawler thinking he could fairly use him as a conduit to the supervisors. This was his initiative and he wanted to be clear about that.

Mr. Lawler said he wants to be clear about one other thing. His comment about people being paranoid was not because they disagreed with the internal report. The paranoia, he saw, was the belief, that he somehow; he, Jack Lawler, the Town of Waterford Supervisor had control and could dictate the work product of the Stewart, Jones, Hacker, Murphy Law Firm. That he could personally tell Mr. Neidl what to put in his report so that it could be a whitewash of this situation. He wanted to be clear where that came from. He said he would be happy to accept apologies at any time.

Mr. Allen asked if there were any other questions for Mr. Neidl.

Mr. Zlotnick said it is his understanding that Mr. Neidl had just told the Board that he had made a couple of mistakes. Mr. Neidl said yes, he made a mistake. Mr. Zlotnick asked Mr. Neidl if to the best of his knowledge do you get to go to work tomorrow. Mr. Neidl said yes to the best of his knowledge. Mr. Zlotnick said so your supervisors, your superiors are not firing you for a mistake you made in a published report that has been in the newspapers. They are not firing you at this time. Mr. Neidl said not to his knowledge. Mr. Zlotnick thanked Mr. Neidl.

Mr. Kusnierz said he does have a question for Mr. Neidl. He would like before he continues because he expects there will be additional comments could you read Rule #9 that was unanimously adopted by this Board in January under Rules of the Board. Mr. Allen asked if Mr. Kusnierz meant him. Mr. Kusnierz said if he didn't have a copy he could read it for you. He said he could save some time, if the Chairman liked. Mr. Allen said sure. Mr. Kusnierz said Rule #9 says that "No member shall be allowed to debate upon any report, resolution or notice, or amendment or subsidiary motions thereto, or otherwise hold the floor at a Board meeting, for a longer period than five (5) minutes." Mr. Kusnierz asked if anyone was tracking that. Mr. Allen said he was not. Mr. Kusnierz said he has heard that we want to stick to the rules, that we operate by, that we govern under; but we are blowing that one aside. Mr. Allen said this is a discussion that we need to happen. Mr. Kusnierz said then we are not going to adhere to the Rules of the Board. Mr. Allen said yes, sure we will. Mr. Kusnierz asked who would be tracking. That is a cumulative time and not each time a board member wants to talk. That's a total time. We have some members that have exceeded that already this afternoon. What is your intention regarding additional debate on this. Mr. Allen said from here on out, you will have your five minutes. Mr. Kusnierz said thank you.

Mr. Kusnierz thanked Mr. Neidl for his time and his willingness to be here today for this very important meeting. How many paragraphs were in the report that you put together. Mr. Neidl said number of paragraphs there were 140. Mr. Kusnierz said 140; and so you're proposed amendment for the record is basically 1 or 2 paragraphs. It addresses 1 or 2 paragraphs. Mr. Neidl said it addresses a number of paragraphs in section C & E. Mr. Kusnierz said could you characterize for other members of the Board as well as for the staff and any member of the public here, what else does the report focus on. What was the primary focus of the report, leading up, that consumed that number of paragraphs in your report to the Board.

Mr. Neidl said he is going to be careful about this. He chose some words in that report very carefully notwithstanding everything described earlier. In the report it relays what he has looked at and seen better than he can do so earlier here. By way of general summary, the report looks factually at what we know about the time and one-half idea came about. How it was basically announced to employees, I'm sorry, to Department Heads and unions on March 15th. And then how if at all it changed over time. The Board meetings of March 17th, the full Board meeting and the Law & Finance Committee and then any recorded meetings of the COVID group. What happened when and what can we verify based on what is documented and what isn't. That's essentially it.

Mr. Kusnierz thanked Mr. Neidl.

Mr. Barrett asked Mr. Neidl he knows in the report a lot of the, at least a good portion of the, research was regarding the lack of documentation in various areas, correct. Mr. Neidl said correct. Mr. Barrett said this was despite assertions that the time and one-half payment ended on 3/19, correct. Mr. Neidl said correct. Mr. Barrett said so if Open Meetings Laws were followed and certainly, you point that out as being a failure, so if Open Meetings Laws were followed by the COVID Committee, would it be fair to assume any decisions of the COVID Committee would have been documented. Mr. Neidl said the Open Meetings Law requires such bodies of the body to keep minutes of the meeting. Mr. Barrett said very good. He said he concurs with that assessment. He said if Mr. Neidl could also, do you have the report in front of you, he asked Mr. Neidl to read the first paragraph of the conclusion. Mr. Neidl asked if that was the executive summary at the beginning. Mr. Barrett said page 83. Mr. Neidl read "the Administration's announcement of a policy to pay time and one half compensation to department heads and unions on March 15, 2020 was without authorization from the Board of Supervisors. The authority to fix or modify the compensation of County officers and employees rests squarely with the full Board. Citation NY County Law Section 201 and 205. The Administration did not have lawful authority to make the announcements of March 15th". Mr. Barrett said going back to what Mr. Kinowski said was voted on, there was nothing in that resolution that mentioned anything about time and one half. The Chairman at that meeting he had asked him for his commitment to get back to the Board in five (5) days as to the direction the policy might take regarding the COVID committee pay, any policies that might be acted upon or implemented. That didn't happen. That's when we became concerned and that's when we began to ask questions. What exactly is happening. And the information wasn't forthcoming. It just wasn't. So you can call it paranoia. You can call it badgering. You can call it whatever you want. But that's the facts and that's what happened. It was a simple request. A commitment was made. And unfortunately it was not followed through; so we would have answers to our questions. And that's really that simple. We can keep going back and talking about that portion that happened. And that's on the record.

Mr. Kinowski said to that point. Since we are debating this all around the room. The law that was stated "201 and 205" what authority does the Chairman have under an executive order to make those decisions. Outside the Board.

Mr. Neidl said under section 24 of the NY Executive Law, the Chairman has the power to declare a state of emergency within the County; and, also to adopt executive orders to implement whatever remedial measures are necessary to suspend the rules that may otherwise apply to press the emergency.

Mr. Kinowski asked if it had to be in writing or could it be verbally as well. Mr. Neidl said section 24 of the Executive Law says it has to be in writing and signed. Mr. Kinowski said there could have been a mistake made that it wasn't in writing but the Chairman did initiate the action and he didn't need a board to do it. He could have done it on his own, through the administration. Mr. Neidl said the board doesn't have to adopt emergency orders. Mr. Kinowski said we were under an emergency order at this time. And Mr. Barrett, to your point, we didn't say we would get it back to you, we said we would get it back to the Board. And the Board actually validated to the Chairman and to the group who was working under very duress situations and they did just that. They pursued. And roughly five days later it was clearly stated in this room, the record proves it, that within 5 days later they would revisit it. How they would revisit it and the answer to all that while they were being badgered to change it by the way and he thinks that all out there as well by the Times Union and all the other newspapers. And then they finally reversed it or ended it. And then the communications of that is what you would say fell through while everyone is being reduced. We are under COVID. We are in masks. A war going on. That's called the fog and friction of war and he has made that comment a few times in the Board rooms. He goes back to the statement he made earlier. All of us in this room, under these procedures would have found it difficult to communicate everything when there really isn't an established communication path. We need to learn from the report. We need to learn what we have been doing so far. Public Health has been doing an outstanding job. Seems like our Board can't for some reason. Disjointed at best, quite frankly. And that's what is going on here and that's simple to explain. Thank you.

Ms. Gaston said she doesn't think it's germane to the motion that is on the table at all but she believes facts should be corrected. Actually if you look at the minutes from the meeting on the 17th, she requested a special meeting. The Chairman told her herself there would be a Human Resources Committee meeting the next week to evaluate the pay. And that the week following there would be a Board of Supervisors meeting scheduled. That meeting did not happen and was pushed off several times. As a matter of fact the Chairman did at the meeting on the 17th

indicate in what manner and at what time we would have a report back at the latest regarding the pay issue. Again, not germane, but would like the facts on the record.

Mr. Lawler in response to Supervisor Barrett referencing that first paragraph of that section that states that the Administrator did not have the authority, he would like to remind everyone that on March 15th, the County Administrator sent an email to every supervisor advising them that time and a half would be effective on March 16th. He did that with the agreement and the direction from the County Chairman who the following day issued an Executive Order, which he believes, gave him that latitude. No one can be surprised at the time and a half. Everyone got an email on March 15th. Perhaps more importantly and he would refer everyone to page 75 of the report half way down: "in addition Supervisors approved the resolution after being told in open meetings that the COVID Group's first order of business in effect would be to authorize time and a half pay for all county employees physically coming to work with no restrictions based on tier. The audio recording of the March 17 Law & Finance Committee meeting shows that Hellwig told the Committee that "everybody" working in person would receive the extra pay: Supervisor Kusnierz, Just on that subject, for clarification, is that applicable to salaried individuals? Hellwig, Everybody. Kusnierz, Salaried and..... Hellwig, Everybody. And during the full Board meeting of March 17, McNamara said essentially the same thing. Supervisor Barrett, Is it, and who exactly is covered by this provision? McNamara, so it is anybody who is coming in to work. Currently. Barrett, Anybody? Any County employee? McNamara, any County employee." Mr. Lawler said he just wants to make sure he understands this on March 15th the County Administrator sent an email out telling every person on this Board time and a half would be in effect on March 16th. He did that believing that the County Chairman via his executive order to be issued on the 16th giving him the authority to do so. But regardless of that on the 17th, the very next day, this Board unanimously approved Resolution 84 that gave the COVID committee the authority to set compensation. In the discussion, and it is repeated and repeated, in the minutes and in this report, every supervisor in this room knew or should have known and that's based on this report that time and one half would be applicable to all employees effective the 16th. So if he understood this correctly, even if you believe, he didn't see how you could, even if you believe that the decision to pay on the 16th was somehow insubordinate, insubordination after he told everyone he was going to do it on the 15th was somehow insubordinate and usurping the Board's power to do it on the 16th and now we are going to fire him because he did it on the 16th despite the fact the Board approved the very same thing the next day. So we are going to fire the man because he put a compensation plan in one day earlier than this Board unanimously voted to do it. The board knew he was going to do it on the 16th because we all got the email on the 15th. We are going to fire this man because he put that plan in place on the 16th, the plan we all approved the following day on the 17th.

Mr. Tollisen said this is the first time he was hearing there was an executive order issued for time and a half. This is a total deflection of what really happened. He doesn't really agree with any of it. If an executive order existed, which if an executive order existed for a change in compensation which should be set by the Board of Supervisors then if it was that big of a deal then it should have been in writing or in a future executive order which it wasn't. This is the first time he is hearing of an executive order decision. If that actually existed then what was the need for a board meeting to approve any time and a half. It makes no sense. It absolutely makes no sense. Once again this is a total deflection of what he has said from the beginning we need to make this right for our employees. This is all he is saying and it's what he has said from the beginning. This is to him very troubling that we are going to go down a road now for the first time and talk about an executive order about time and a half that didn't exist.

Ms. Gaston asked for a point of information. She asked Attorney Neidl if he was asserting that there was an executive order justifying or ordering that time and a half. You were saying that the Chairman had the ability to draft and issue such an executive order but to your knowledge, no such order exists. Correct.

Mr. Neidl said he never seen one and the ones he has seen did not address the time and a half or compensation changes. There was no executive order in place on the 15th of March. They were adopted on the 16th of March. He said he wanted to be clear on this he is not saying what Mr. Hellwig or Ms. McNamara did on the 15th. Mr. Hellwig did communicate with the Chairman that. The Chair approved. Mr. Hellwig did indeed email the full Board to say there would be time and a half for essential workers (inaudible). What he is saying, the way it occurred was not lawfully (inaudible) because there was no emergency declaration. As one of you said a minute ago and as he reads the record what followed after that was not the adoption of the executive order instead it became something that was presented to the full Board of Supervisors. It was asked to have it put in a resolution before so he was told, the COVID group solution was put in resolution (it should be noted that Mr. Neidl is very difficult to understand/hear/follow.) He was told by the payroll supervisor that she was directed to implement the

time and a half as of the 16th to the 19th retroactive. They took the action after the Board vote. He looked at what was not done by executive order but by how it occurred. We had this on Sunday, had a board vote on Tuesday, it created a COVID group, the COVID group/HR instituted the extra pay retro through the 19th. That's the path he followed.

Ms. Gaston thanked Mr. Neidl for the clarification and asked if Supervisor Tollisen could hear that with the discussion on executive orders. She didn't want to leave anything out there that there was one or if it was Mr. Neidl's interpretation that that was on the record.

Mr. Kinowski said the decision made by the Board on the 17th can be retroactive. Mr. Neidl said absolutely. Mr. Kinowski said it was. He guesses there didn't need to be an executive order to initiate it, authorize it and implement it.

Mr. Neidl said this part of the report is responsive to claims he had heard from some supervisors he interviewed that when the matter came before the Board on the 17th. There was confusion and lack of understanding by some supervisors as to where it was coming from notwithstanding Mr. Hellwig's email on the 15th. There were union representatives there to thank the Board so the supervisors conveyed that to him as part of it. It's not his job to suggest if something warrants adverse employment. He wasn't there to do that.

Mr. Kinowski said he didn't mean to put Mr. Neidl on the hot seat. What you are experiencing here with the rest of the Board is what would have occurred had this thing be sent through like most reports are through appropriate committee processes, meetings and executive sessions discussing with authors of reports and all the above in order to get to the bottom of things. He finds it unbelievably ludicrous for our 230,000 residents to note we are going to be firing somebody and the people wanting to do it have no reasons why. It's just unbelievable. And to note because he had made some remarks in the report concerning unions and it appears one was one way and the other two didn't want to respond to you we have CSEA present in the room if anyone would like questions of them. They are here. If anyone wants to ask them a question if they knew or how they perceived this. Mr. Peck do you want to go down that road. Mr. Peck said he wanted to give Mr. Neidl an opportunity, if he's done to sit down. If supervisors are done with him.

Mr. Peck said he doesn't think we want to go down the road and make people uncomfortable or on the spot. Just so everyone knows about executive orders the County was actually working on that on Friday, the 13th and that's a moot point but he was on the phone with the school superintendent in Schuylerville with their attorney as they wanted to know if one was coming. They did not want to go to school on Monday and was worried about reimbursement. The district was afraid if the County had not done an executive order yet they were planning on bringing it to the Board meeting and he suggested they should do it on that day Friday. Mr. Peck was told Attorney Dorsey was working on it and they would act on it on Monday. If there is any confusion on it there is no doubt that the executive order was coming.

Mr. Peck said a few things he wanted to touch on. To Supervisor Tollisen's comment we aren't debating the pay we are debating the termination of Administrator, Hellwig. Sometimes when you are joining a meeting remotely it's hard to follow. The discussion on the floor is really and he is still seeking the grounds for that. Part of the larger plan here, this is the first step. As Supervisor Kusnierz mentioned to him last week after the Board meeting they said the administration is after him. And he's going after them all. Mr. Peck's inquires on that and discussion with the County Republican Chairman that the Corridor members, that's why he asked who they were, they wanted his resignation and that Marcy must go after. And yesterday it was inferred that the County Attorney was to go. So now he thinks there is a bigger issue. Now he thinks this is not the first person they will look to fire, this is the first step. Then it becomes why. Are they all tied to Mr. Neidl to the report. He thinks there is a different issue. Maybe all the COVID folks don't know. The Corridor group doesn't know. Now he has found, it has come to his attention that several months ago an unlawful workplace harassment case was filed by one of the members, against one of the members. An outside investigation been going on that for months. Cause now it looks more like after I've had these conversation they are going after Spencer, the Administrator, they want the Human Resource Director who is on a term removed and now they are going after the County Attorney. Now it looks like the purpose is to squash or silence the pending report cause those are the people that know about it. This is a bigger issue for the folks that work in this county to understand. This is a bigger issue for folks that work for this County and the citizens of the County to find out what is really going on here. He said he has tracked and tried to participate and assist this County in any way he could throughout. He kept getting reports of interference with our unions, our members of this organization. It goes to.....

Mr. Kusnierz said Mr. Chairman point of order how much time has the supervisor had. Mr. Wright said that he would give Mr. Peck his five minutes. Mr. Kusnierz said that's not provided for in the rules. Mr. Wright said he didn't care and would do it any ways. Mr. Kusnierz said it is cumulative. It is accurate to say that Supervisor Peck has exceeded the 5 minute total allotment this afternoon on debate of this resolution. Please refer to rule #9, correct me if I'm wrong, but it is cumulative on the motion. Mr. Kinowski said whether it's cumulative...(Mr. Kusnierz and Mr. Kinowski were speaking at the same time.) Mr. Kusnierz asked the Chairman if he had the floor. Mr. Allen said he does. Mr. Kusnierz thanked Mr. Allen and asked someone to tell him if he is not accurate in his interpretation of rule #9. Mr. Peck asked if anyone had kept track of his time. Mr. Dorsey said he didn't know. Mr. Kusnierz said he had kept track and he had exceeded the time. Mr. Dorsey said somewhat at odds with rule #9 is rule #6 which says the Chairman of the Board shall have the right to establish other rules and additional time limits governing the appearance of person before the Board. Mr. Lawler said it's up to the Chair. Mr. Dorsey said yes, they are in conflict of one another.

Mr. Peck said Mr. Chairman do I get more time then. Mr. Allen said yes. Mr. Peck said he would like to move to the podium. He does this for public service. He is a dairy farmer with small kids who for 30 years has worked on behalf of this County and this party. What's going on here is a disgusting political game. Once this thing started it was a power play. My predecessor, a democrat, calls me up and says to me, who happens to be my uncle, well known democrat Edgar King, and he said Edgar are you calling me about the newspaper articles. His uncle said to him no the first time he read this he knew it was a power play. He could smell it a mile away. It continued. The use of the pandemic to use as an opportunity to aggressively do more. Then we get into the pay situation. We come to a Board meeting here, with Chairman Allen and Vice Chairman Pemrick every time the COVID committee met they asked Mr. Peck to attend. On the afternoon of the 27th, Friday afternoon we were here. Chairman Allen, Pemrick, Peck and Supervisor Wood on the phone, Barrett, O'Connor, Tollisen and Schopf on the phone. The administration was Hellwig, Cooke, McNamara, Kinowski, Sheriff Zurlo, Undersheriff Castle and Dr. Prezioso. There were four demands that day and we tried to accomplish all of them. O'Connor on the compensation committee. We will declare him the labor expert. Did that. Committee set up to oversee COVID. The administration tried to do that, provided a list, asked Supervisor Tollisen to chair it. Try to get a good mix. Supervisor Tollisen accepted. On a Wednesday, the next morning he texted the administrator and withdrew as he had too much commitment in his town and parents and that's understandable. He said he was asked to do it and he said ok. They wanted to reset everyone to base pay. By that time they were aware that it was only the command center because the big issue of supplying the names of the command center, the sheriff and the undersheriff was having 2 deputies work there. Apparently a former groomsman but ex-friend of the PBA President and he did not give him time and a half which he wasn't. That continued to be an issue. (Mr. Peck and Mr. Kusnierz were speaking at the same time.) Mr. Kusnierz asked for a point of order. He said there was something that was directed at him. Is this germane to the resolution on the table. There was a determination made by the parliamentarian that's you, is this germane. Mr. Allen said he wasn't sure where Mr. Peck was going with this. Mr. Kusnierz said then it sounds like you are not sure whether it is germane. Mr. Allen said he isn't sure where he is going with this explanation. Mr. Peck said he is going to the completion of that meeting. Mr. Peck to Supervisor Kusnierz, do you want to silence me because you are embarrassed of the outcome of that meeting. Mr. Kusnierz said he was proud of the residents he represents because he has integrity. He looks out for the taxpayers. There was an action by some members of this Board that just want to line the pockets of certain employees. He asked if anyone knew the definition of crime of public misconduct is. Mr. Lawler said yes, we do. Mr. Kusnierz said asked Mr. Lawler to read it in to the record for us. Mr. Lawler said he knows what it is and added the report clearly....Mr. Kusnierz spoke over Mr. Lawler stating public misconduct is activities by county staff for their own good. Mr. Lawler suggested he read the report as there was no illegalities and there wasn't even an ethical violation. Once the Board approved the compensation for all employees...(many supervisors are speaking at once)..Mr. Allen said Mr. Peck has the floor. Mr. Kusnierz said he was asking if the discussion is germane to the resolution on the floor.

Mr. Kusnierz said he would like to remove the resolution from consideration and offer that the following resolution be added to today's agenda that reads as follows the resolution would rescind the at will appointment of the County Administrator Spencer Hellwig effective immediately upon the outcome of an investigative inquiry.

Mr. Peck asked if he could be more precise on what he is referring to. You read the words very carefully so we need to know what they mean.

Mr. Kusnierz said correct words do have meaning. The first resolution that we have been debating here called for the immediate essentially termination of the County Administrator. He has proposed that it be amended that his

appointment be in limbo until the results of an investigative inquiry into actions that occurred during the time and a half pay pandemic. He asked if that was clear.

Mr. Peck said we don't have an outside investigation going on. Mr. Kusnierz said the County Administrator would not be acting in his official capacity as County Administrator until the outcome of an investigative inquiry.

Mr. Allen asked Mr. Kusnierz who he suggested do this investigative inquiry.

Mr. Schopf asked if he could make an amendment to Mr. Kusnierz's motion. Mr. Peck asked if he was asking for the Federal authorities. Mr. Peck asked if that was what Mr. Kusnierz was asking for. Mr. Kusnierz said actually Supervisor Schopf was Mr. Wright said texting you what to say. Mr. Kusnierz said he didn't think so. Nope he didn't.

Mr. Lawler said don't you have the floor. Mr. Peck said he did but apparently Mr. Kusnierz had withdrawn his motion. Mr. Peck said he would stop his comments and hold. He said he would remain standing as he was much more comfortable standing then sitting next to him at this point. Mr. Peck added that he withdrew the motion but altered it to change to an investigative inquiry which Mr. Peck was unsure about. Mr. Schopf wanted to clarify it.

Mr. Schopf said Mr. Chairman he had listened to everyone speak to this issue here to nauseam. He has done some research while this debate has been raging and he believes it would be most appropriate at this point to amend Mr. Kusnierz's latest motion to provide for a suspension of the County Administrator for a period of up to 50 days during which time a committee which he proposed to be constituted of equal numbers of Supervisors from "small towns" and Supervisors that represent the Northway Corridor to conduct an investigative inquiry into the status of County Administrator Hellwig and to decide what charges if any to offer at a full meeting of the Board for consideration. He said he believes that would be consistent Mr. Chairman with alternative county government law section 154. He didn't know if the County Attorney wished to speak to that or not but that would be his amendment to the motion. It would be appropriate to consider here today and would alleviate everyone's concerns.

Mr. Dorsey said just to clean up a couple of things. It is his understanding Supervisor Kusnierz has withdrawn his motion so he doesn't think there should be an amendment to a withdrawn motion. There isn't anything to amend. He would rather say Supervisor Kusnierz's motion has been withdrawn and you are offering a whole new motion all together. Is that correct. Mr. Schopf said he could do it as a new motion and didn't know if it was procedurally correct to amend a motion prior to a second but that is what he would offer. If Supervisor Kusnierz would withdraw his, what he said he would offer. Mr. Kusnierz withdrew his motion. Mr. Dorsey said his understanding and he has never had to dive deep into Alternative County Law but that applies to charter counties and we are not a chartered county. He doesn't have a problem with the rest of his motion just the citation to the Alternative County Government Law because it doesn't apply because we are governed by the rest of the County Law which deals with Board of Supervisors.

Mr. Schopf said he would accept that because he didn't know if it applied or not. Mr. Kusnierz asked if his motion was to add it to today's agenda. Mr. Schopf said correct. Mr. Kusnierz said he would second the motion.

Mr. Allen asked if there was any further discussion. Mr. Peck said there will be a roll call vote to add it to the agenda. Mr. Allen said correct, we have a motion to add this resolution to the agenda. Roll Call Vote.

AYES (141124): Preston Allen (856), Philip C. Barrett (18352.5), Eric Connolly (9776), Jonathon Schopf (18352.5), Kevin Tollisen (21535), Darren O'Connor (14765), Theodore Kusnierz (14728), Tara Gaston (13293), Matthew E. Veitch (13293), John Lant (16173).

NOES (78483) Alan Grattidge (4133), Richard Lucia (6531), Jean Raymond (1214), Michael Smith (3545), Daniel Pemrick (7775), Arthur M. Wright (2048), Thomas Richardson (5196), Benny Zlotnick (18575), Willard H. Peck (5087), Sandra Winney (1995), Thomas N. Wood, III (5674), Edward D. Kinowski (8287), John Lawler (8423).

Mr. Allen asked for a motion to adopt the resolution. Mr. Schopf said he would make the motion to move that for consideration and adoption by the Board. Mr. Kusnierz seconded the motion. Mr. Grattidge asked for a clear

reading of what this motion is. Mr. Schopf asked the clerk if she had the motion. Ms. Wright was not sure she had it all and said she tried to write as quick as he spoke. She offered to read what she had and Mr. Schopf could correct what she had. Mr. Schopf said he would read it again. He said the motion would be to suspend the County Administrator for a period of up to 50 days during which time of the suspension, a committee to be constituted and formed with an equal number of supervisors from so called small towns and so called large towns which represent the Northway corridor task force caucus would meet and discuss potential charges and ramifications against County Administrator Hellwig resulting from the independent investigation report that has taken up our time today and that is the charges if any that come out of that Committee will be presented to the full Board for consideration and vote prior to the expiration of that 50 day period.

Mr. Kinowski said he appreciates that, Jonathan, whether you fire or suspend it's still for cause. We still don't know what the causes are. He doesn't agree with the suspension at all. Why is he being suspended.

Mr. Schopf said Mr. Kinowski he believes the committee that he proposed would analyze the report and would come to a conclusion of proper charges to come out of his initial support for this action would be predicated by the contents of the report in total.

Mr. Kinowski asked what the charges were. If there was going to be an action made to an individual aren't they entitled to know what they are.

Mr. Schopf said he just said the report in total would constitute the necessity for this and he believes based on everyone's comments made today, the committee would be the most appropriate to meet, to discuss and to formulate charges if any and to bring them to the Board.

Mr. Kinowski said if any but the report in the conclusion didn't say they did anything illegal.

Mr. Peck said in the use of the word charges are you meaning disciplinary action or are you seeking charges.

Mr. Schopf said he is adopting right or wrong he is not an expert in alternative county law, right or wrong if we fall under that statute that he uncovered here it referred to charges. He is presuming that is a documented report that says what the cause was or is and whatever sanction or penalty that committee would suggest.

Mr. Wood said he would like to remind every member of the Board here that this revised proposed resolution still remains in complete contradiction to the established policies and procedures for discipline. Each of these policies and procedures was passed resolutions by members of this board. This year, previous years, but they are all established policies that are in the handbook and have been there for a long time. One of the purposes of these policies and procedures is to establish due process. Everyone is entitled to a certain serious of steps and procedures and they are already outlined. If there are issues they can be dealt with through the established procedures. Mr. Hellwig has dedicated his life to this County. It is beyond belief that we would consider even suspending him for 50 days. Someone that has been that dedicated, worked so hard and given so much and help make this County the best County in the State of New York; so he encourages the Board members to not support this. It's not right. It's not proper.

Mr. Wright said he would agree with Mr. Wood. He heard early on in this process, Deputy Administrator Cooke said to him if someone had a COVID 19 playbook he wished they had shared it. Nobody knew what was going on with this pandemic. Was there mistakes made, absolutely. There is nobody in this room that hasn't made mistakes. Is it worth putting a 32 year employee's reputation on the line and suspend him for 50 days. Over what. The report specifically says nothing illegal was done. There was no ill intent. It blows his mind that some want to destroy this man over this asinine COVID 19. It's destroying everybody as it is. Nobody has ever dealt with this before. Things were changing by the minute, by the hour. The Governor, the President, everyone has made mistakes. Nobody is firing them. Everyone makes mistakes. He makes mistakes every day. Nobody is firing him. It is ridiculous that we are putting a 32 year employee on the line. He sat in Preston's chair. He was Chairman of the Board. He knows how good the staff is in this County. They run this County a lot better than we can. Trust me. And this is absurd we are putting this man's reputation and job on the line. This is the most ridiculous thing he has seen in his 14 years here. He used to love this board and coming to the County. Now he can't stand coming to the County cause he can't stand working with some of the members. It's because of what has gone on in the last 5 months.

Mr. Connolly said he is trying to keep an open mind on this as it's being discussed and he would have to agree with Supervisor Kinowski. To suspend someone for 50 days without the charges being stated just doesn't seem American. You are innocent until proven guilty. He doesn't think he would be in support of this. He would be in support of a small town big town committee looking over the report. As he read through it very slowly and methodically there's some concern in that report. He knows it was a difficult time and he recognizes that. We all had a difficult time dealing with this. There are things in there on page 19, 20, 21 that jump off the page at him. It should be discussed. He is not suggesting to fire him. But when large mistakes get made people should be held accountable to some degree. And that's all he has to say.

Mr. Pemrick as Supervisor Schopf outlined that proposal that would do nothing but legitimize what they tried to do in the previous motion from Mr. Kusnierz. Now we shifted to a group of people within this Board of Supervisors that would somehow get together to make judgement on Mr. Hellwig, which is ludicrous. He does not support this at all and hopes the rest of the people here think carefully before they legitimize an attack on a well-respected administrator that we have been working with for a number of years.

Mr. Lawler said one quick comment. Earlier Supervisor Tollisen referenced the emergency declaration and that was the first time it was mentioned. Kevin, I know there is a lot of stuff flying around here and it's easy to lose track of things; but, on the internal report on page 11 under the interview with Preston Allen and County Administrator Hellwig there is a whole paragraph there dedicated to a decision on the emergency declaration and what Chairman Allen and Mr. Hellwig believe what authority was given to them. We certainly can listen to Mr. Neidl and he makes a good point as to whether or not that declaration did in fact give that authority by that declaration is referenced in the internal report and it does document that their understanding was that the declaration did give them that authority. He supposed it was easy after the fact to look at it and come to a different conclusion. In regards to this resolution it's plan A. Plan A, have the County Chairman call Spencer Hellwig tell him to resign or else. That's what happened. Spencer Hellwig, to his credit, said he would not resign, I didn't do anything wrong. Plan B, ignore all the County's policy and procedures regarding discipline and termination of an employee. Ignore them all. Come to a meeting, not on the agenda, an item that has not been discussed at any committee or any board meeting, introduce a resolution to terminate the County Administrator immediately. We aren't telling you why. We are just terminating you immediately. That doesn't go well. Plan C, let's suspend him for 50 days. Let's have another committee investigation. We've had two. Maybe we will get lucky on the third and find enough information in it to justify some kind of disciplinary action. And he thinks, quite frankly, Supervisor Pemrick is right. He doesn't know how anyone here especially the County Administrator could expect a fair hearing in that committee since a significant number of supervisors have already looked at this and determined that he should immediately be terminated today without cause. I think that this committee would be nothing more than an attempt to give cover to what he believes Supervisor Peck adequately described as a political vendetta. Supervisor Kusnierz demanded Ms. McNamara resignation. County Administrator Hellwig said no. So here we find ourselves County Administrator Hellwig has to go.

Mr. Kusnierz said he felt compelled to respond to the false accusations from my colleague at the end of the table. That was a finding in his report, not the independent one, his report that was massaged to fit the narrative. He said he never said that. Never said that. Not characterized in the independent report so who has the political vendetta here.

Mr. Lawler said there were people in that meeting, Supervisor Kusnierz, who he believes today would say that you did in fact demand her resignation.

Mr. Kusnierz said words have meaning and those weren't the words he used. Mr. Lawler said he would defer to Supervisor Peck.

Mr. Peck said maybe we should ask Supervisor O'Connor and he can characterize it for everyone, if you would like to get to the point. In that meeting, Mr. Peck turned to Mr. O'Connor, at the time and said to him "Darren, this is going downhill fast". Mr. Peck said Mr. O'Connor closed his eyes and lowered his head. This is when Mr. Peck got up and Mr. Pemrick came in. That's a moot point on this issue. This issue is about the proposal on the floor. That's getting side-tracked. He would love to talk about this, speak up and tell everyone that's what happened. Before we go much further, he needed one clarification. Maybe he is lost or in a different world but what is the alternative county government law for non-sanctioned governments. He didn't know where to find that in McKinney's.

Mr. Dorsey said it is in the County Law at the end. It is a section at the end that describes how to set up a Charter County, which we are not. Mr. Peck asked if we are acting on something that's alternative or was that removed from the resolution. Mr. Schopf said he would agree to remove that reference, as he wasn't sure it was applicable or not. Mr. Kusnierz asked if the motion on the table was just amended if he understood. Mr. Dorsey said he did not include the reference to alternative law in his motion. Mr. Schopf said the motion did not refer to the alternative government county law.

Mr. Peck said he would like to address the motion itself. Before we do anything to give automatic suspensions, he believes we need to have a discussion that there is cause for disciplinary action. We need to document it. We need to provide that to the employee. Even though employees are at will that doesn't mean they go without rights. There are rights under State and Federal Law for at will employees. His bigger concern to all of this is the August 18th and we are in budget season. We are at a critical juncture at this County's fiscal time. And to lose this type of institutional knowledge, he knows a call was made Friday afternoon, 4:45 seeing if Chad still wanted his job; if he did then could he handle the budget. That's a big lift to put somebody under. He would not recommend a suspension today unless we somehow went through the proper procedure.

Mr. Kinowski said to Mr. Peck here we have a motion being introduced for a resolution to vote upon that is in contrary to our very policies that Mr. Wood defined. How do you get around that. How do you introduce a motion that's going to override our policies. He guesses you'd have to re-write the policies first. He said that can't be done; you can't say he's out for 50 days. Paid, unpaid for what reasons he still hasn't heard. The reasons are going to be incurred after the report is finished. That's when you do it. How do you make it retroactive? Where are those rules? We are debating this in view of 230,000 employees out there listening so they can get back to all of you in your townships, it's crazy.

Mr. Connolly said if it's not proper procedure and he agrees it's not, what is? If the Board of Supervisors, he just asking this as a question, would like to take a look into the actions of an at will appointment what is the proper procedure?

Mr. Grattidge said he believes the procedures are in the manual for a disciplinary hearing. If there is a call for a discipline hearing, then through the HR Committee it should be held and a period of time could be done and a finding through our normal channels. Again, to lose the County Administrator as we are going into the budget season is ludicrous. If the process unfolds over the next 2 or 3 months, you have plenty of time to make a decision to have somebody new in place by the beginning of the year with some kind of transition period. To throw somebody out the door with no notice is not good government. He thinks we already have the ability to go through a procedure and the time to do it and we should follow the rules we already have. Thank you.

Mr. Zlotnick said he understands the process of weighted votes and he has only been there for eight months and is the new kid on the block so forgive him if he isn't quite up to speed on somethings; but he finds it very, very dangerous that six or seven people can make a decision that affect hundreds of thousands of people when there is 21 or 22 people on this board that is supposed to work in some type of unity. When 6 or 7 people who control a vast majority of the votes, get to have their way, he thinks it sends a bad message to any one that is an at will employee in this entire county. If you can be suspended or fired without even knowing why he would be very nervous sitting in the back seats here and going what if I do x and someone gets a burr under their saddle and decides I'm gone. He thinks it's a very bad precedent and he will be voting no.

Mr. Allen asked for further discussion. Ms. Winney said before there can be disciplinary action we have to establish if Spencer did something wrong. If they can't tell us what he has done wrong and they can't give us a reason how can the Board vote to discipline him when we feel most of us that he did nothing wrong. It's these other guys who are saying he's doing something wrong. But, we don't know what it is. Why are we even discussing this. If they can't give us a reason for what he did wrong what are we discussing it for.

Mr. Kinowski asked if this was an inappropriate motion that we are about to vote on. He asked County Attorney Dorsey if there such thing of a motion being entertained that is totally inappropriate to entertain because it flies in the face of current policies, laws, rules and procedures. It is in violation of something, certainly our policies.

Mr. Dorsey said this was a question for labor counsel. He isn't familiar with the procedures at all. This is a Jonathan Bernstein question. He doesn't know if the manual says how to discipline an employee or investigate allegations against an employee.

Mr. Kinowski said he was glad the Attorney said that because that is what we are debating here. Jonathan is over there on the internet researching stuff maybe I can introduce this...what is the rush? He still doesn't get it. You can't tell us why you want to fire him or you can't tell us why you want to remove him from doing anything for our County at this time especially. You can't tell us why but you want an investigation to figure it out. There needs to be a resolution introduced that makes some sort of sense to this Board and to the people of this County.

Mr. Schopf said to Mr. Kinowski that he was trying to put a resolution on the table to reach a resolution of the conflict of this issue. He thinks as Supervisor Connolly said, who seems to be somewhat of a neutral person here on this, there are serious issues in this report. That is the basis of his support of this resolution.

Mr. Kinowski said then why can't it come through the normal channels that we have been living under for decades in this County. What is to prevent that; there's nothing; it's worked; you've lived under it for the term you've worked here. Mr. Peck has lived under it for a couple decades worth. We have a well-established process for it. Let's follow that road. In the interim there is no action because we need him to do daily business in the work load of this board which unfortunately some of you haven't figured out that you're not board members I guess you are employees because you are dictating what the administration should be doing. Sorry for that outburst but that's what it comes down to.

Ms. Gaston said apologies as she is a relative babe, she supposes, to the decades and decades that Mr. Kinowski is referring to. Director McNamara, it sounded like you said the labor attorney was available. Could we ask the question of the labor attorney if they are on the phone. Ms. McNamara said he is on the line. Ms. Gaston said then perhaps we should ask the question. (Many supervisors speaking at once)

Mr. Peck asked Mr. Bernstein if he was on the line. Mr. Bernstein said he was on the line.

Mr. Kinowski asked what the proper channels would be to conduct an action upon an employee for cause. Mr. Bernstein asked him to repeat that. Mr. Kinowski said what is the process this Board should follow to make a determination to do something to an employee for cause. Well we don't have a cause yet and he apologizes for that. This Board wants to act to suspend an employee and what is the process this Board should follow to do that. Mr. Kinowski said it is the County Administrator we are talking about. Mr. Peck asked what the County Administrator's due process rights protecting the exposure of the County. Ms. Gaston said to be clear, he is the labor attorney representing the County, not any individual. So the question isn't about his rights, he needs to be speaking on behalf of the County.

Mr. Bernstein said he doesn't have an answer off the cuff. This is an issue of his position and his rights and due process. He asked if Matt (Mr. Van Vessem) wanted to chime in.

Mr. Van Vessem said in essence the process is one where you really want to examine the rights that you have, the regulations that apply and go through the normal proceeding and the normal process of how you would otherwise do these things. So, you are sure the person is given due process, which includes what is being alleged against them, an opportunity to respond to those things, to address all of the issues. Even an at will employee does have rights. You don't want to be in a position of exposing the County to a claim that someone has been arbitrarily, capriciously fired but that they not be fired for reasons that have to do with constitutional protections, political or based on something that is protected by law: age, gender anything of that nature. Those are key issues that you want to carefully vet always before you decide to fire somebody especially when you are in a situation where you have some investigation clearly of an issue but what that all means, understood and vetted probably requires some further analysis. If something is not your normal process it looks to a neutral to evaluate this like a judge or administrative law judge in the division of human rights/EOC matter or some kind of person, that person may say you didn't follow the procedure you normally follow, why? And someone will have to explain why. Those are some of the concerns that would really worry him as a labor counsel to work through instead of jumping feet first into something that there was some concerns that's fine. People can have legitimate disagreement about concerns. But, process wise you have to talk to people. You have to start at base level: what are the rules, what was expected versus what was done and what wasn't done. Get an understanding of it. Clearly you have a head start on some of these facts but there are other things that need to be examined here that he would have questions on if he was to counsel the Board on what kind of actions taken. He would want that information before a suspension or firing. Mr. Bernstein said without that the employee could commence an Article 78 against the County.

Mr. Kusnierz said he had a question for the labor attorney if he may. Mr. Allen said yes, go ahead. Mr. Kusnierz asked specifically does an at will appointee that serves at the pleasure of the Board continue to serve at the pleasure of the Board that's not governed by State statute for a term and rights.

Mr. Van Vessem said an employee in New York State can be fired for any reason and no reason at all if you are at will. But you can't be fired for a bad reason. It seems like you have the ability to fire any for any reason if they are at will but that's not really true. There is all sorts of protection constitutional in the public sector as well as special characteristics such as age, gender, or race that come into play. You have to make sure you are firing someone with the right process, for the right reasons that are well explained and understood in order to substantiate it and defend it. That's what your lawyer is there for; to help you go through that process to understand what you can and cannot do based on what you have. The client makes the decision at the end of the day, as you all know, you guys are the deciders. We tell you what the risks are and in this case you are presenting some risks if the process is changed, which he wasn't saying it was, if you do something you don't normally or if you haven't given someone to plead their side of the case. He has not said any of that has happened if any of those issues do arise you may have to explain that to a judge.

Mr. Kusnierz thanked him and as a follow up he's hearing the words firing used. He hasn't used them. Then again asks, he's looking for clarification does an at will employee who serves at the pleasure of the governing board, can that board make a change in that position. In other words you are not guaranteed employment beyond the pleasure of the appointing board. Is that accurate to say.

Mr. Van Vessem said with all the caveats he has stated before yes of course. If he worked for someone for the pleasure of their term he doesn't have any contractual rights or collective bargaining rights then yes you have classic at will employment but that person does have rights to protect themselves with regard to if something did happen out of normal process. In the public sector, especially there is requirement of due process that may not apply in the private sector where some people are more familiar with. There are obligations especially with someone with a long standing term that you might have to be aware of in the public sector that perhaps don't come up in the private sector. That would all come up as we explore what has happened and what should happen as a result of what has happened factually.

Mr. Kusnierz said so as most basic level is it accurate to say that this board, it is totally within this Board's rights, to put anyone they would like in that position to change it at any time.

Mr. Van Vessem said he couldn't speak to that without seeking the rules of procedure and what applicable policy might be. In a hypothetical situation that is possibly right but can't state specifically for this instance that that would be correct. He would have to know specifics as it applies to this case. Mr. Bernstein said they would refer to the codebook to the description of the position and if it is a fixed term.

Mr. Kusnierz said it is not a fixed term. He has not seen any statutory authority that it is. If someone could point that out. It is an at will appointment at the pleasure of the governing board. It's totally within the Board's rights to make changes as they see fit. You just acknowledged that that is probably accurate. So he doesn't know why there needs to be additional debate.

Mr. Peck said we are having this debate right now and what he said, from the labor attorney, is you'd better make sure you follow the process. And, you'd better do it for the right reasons. If you are doing it for a reason that is ulterior or for another agenda that he questions if that would stand up in an Article 78 proceeding.

Mr. Kusnierz said for the record his reason is to make a change.

Mr. Zlotnick said, as you have stated here several times today sir words have meaning. So yes you haven't used the word fire yet but you've used the words change, terminate, replace. They all mean the same thing.

Ms. Gaston said to be clear Supervisor Schopf, could she confirm that his motion does not seek the termination of the County Administrator. It seeks the suspension pending an investigatory report composed of member of the Board of Supervisors. Mr. Schopf said that was correct. Ms. Gaston said she didn't know if that would impact anyone's opinion the motion on the floor does not seek termination.

Mr. Peck said that was correct. He asked Ms. Gaston if she heard the labor attorney reference that it isn't something you do on the spot without some type of due process. Ms. Gaston said she was very familiar with the legal requirements for due process. She did hear him. However she has since heard several supervisors use the word termination and it should be clear when the Board is discussing the motion at hand what we are discussing.

Mr. Kinowski said he appreciates that point. Still there is something being charged against an individual to act to disrupt what his employment is. That is his concern. We are taking an action. To do that we need due process. That is his concern.

Mr. Lawler said he had a question for the labor attorney. Earlier you had advised this board that it could lead to problems and possible liability in front of a judge if the Board was to terminate an employee without following our own rules and regulations. His question was would that same advice be true if the board suspended an employee. Would your advice to do so, under the rules and regulations, would it apply for a suspension as well as a termination.

Mr. Van Vessem said to take an example from the world of Title VII, which is discrimination law and NYS Human Rights' Law when you deny someone the privileges of employment even if you change someone's work location, something as minor as that if you did it for a reason that upon investigation would be found to be improper or invalid then you have violated that person's rights under the law. So if something as simple as a person use to be at one location and was moved because you had a bad reason for it/be punished and wanted that person to quit even something as simple as that and could be actionable. Denying someone their pay could be similarly actionable. There are other considerations such as economic damages for the loss of money and other damages such as distress. These are hypothetical examples that could come up. There are other things that can happen other than replacing or firing someone that may get you in to trouble; if there was no justification or a bad reason.

Mr. Lawler said he appreciates his answer. He simplified his question. Would Mr. Van Vessem advise this Board if they were going to suspend someone to do that following this Board's own rules and regulations regarding suspension?

Mr. Van Vessem said we have been talking generally and wouldn't want to give any specific advice. He said this is a public meeting. Mr. Lawler said this is a general question. Should the Board follow their own rules and regulations when they suspend somebody? Mr. Van Vessem to answer that in a general way; that is what he would suggest to any board that is contemplating a situation. Mr. Lawler said the Mr. Van Vessem would suggest the Board follow it's own rules. Mr. Van Vessem said yes.

Mr. Peck said to Mr. Schopf and following the legal recommendation of our labor attorney would you withdraw and procedurally run the channels.

Mr. Schopf said he has a question for the labor attorney. He asked what the proper procedure and disciplinary process be under whatever County policy and procedures, you say, are applicable.

Mr. Bernstein said that would have to be looked into. Mr. Schopf asked how long it would take to investigate that and report back to the Board. Mr. Bernstein said a few days, one or two days. Mr. Schopf thanked him.

Mr. Wood said the existing County policies and procedures certainly deal with suspension as well as termination. There are established rules and procedures. They are there. You just can arbitrarily suspend an individual for x amount of time. There is a policy. There is due process. And that's what needs to be followed. As he stated earlier. Some of the policies go back to the '70s and '80s. That's why the HR Committee we are always updating, reviewing and modifying to make the policies current. The policies are there. They cover these things. They cover the rules and procedures and that's what we should do. We should follow the rules and the procedures that we have established.

Mr. Connolly said he agreed with Mr. Wood. It is a challenge as the HR Department is wrapped up in the report. There are supervisors that make up our board that have very firm ideas about this. Who does it? How do we go about doing that in an independent and fair way to both Spencer and to everybody here at the Board? Does anyone have any idea how that would be done in an impartial fair way?

Mr. Pemrick said we have already done that. We can ask that gentleman to stand up again, the attorney for the Hacker Law Firm. He thinks he went through that very clearly for us and gave us results and reports. Someone mentioned this earlier. Are we going to do this a fourth time or a third time until someone gets it the way they want to get it? He'd like Mr. Schopf to consider withdrawing his motion and let this follow, give these attorneys, two or three days to tell us what the recommendations are that we could follow if the Board so chooses to. Let it follow the internal process.

Ms. Gaston asked Attorney Neidl to clarify that his report did not give any personnel recommendations one way or the other or look into those evaluations, correct. That was not the purpose of your report. Mr. Neidl said he did not do that. Ms. Gaston said any investigations or any conclusions that took place did not recommend for or against any action against any county employee or supervisor, correct. Mr. Neidl said correct. Ms. Gaston said one way or the other whether we fully believe either report or both reports or whatever none of the reports gave any personnel recommendations. That is the purview of the Board and we should be making those decisions. Whether we do it in this moment or whether we do it through another process it is our responsibility to be making these decisions and frankly, again, given what Supervisor Connolly is saying she would like to see if anyone is opposing what Supervisor Schopf is saying. She would like to see another opinion on what we should do. Because part of the problem with this particular constellation of issues is that all of our normal processes are wrapped up in (noise on someone's phone and cannot hear what Ms. Gaston is saying). So obviously, she doesn't want to stop you from answering anyone else's questions but she wanted to make it clear he was not giving personnel recommendations.

Mr. Kinowski said he concurs in that respect. But still there is a portion of the introduction of the resolution that creates an action against an employee. And so if you want to form a group such as Supervisor Connolly has suggested. To poll people to get answers to questions you'd like to see, fine. But don't act on the employee first. Let's get the information we need so we don't create another problem for this Board and our County. It doesn't make sense to do that.

Mr. Connolly said he agreed with Supervisor Kinowski. But he believes we need to put it behind us as quickly as we possibly can. He don't agree with the 50 day timetable. He really believes there is enough of us available to resolve this once and for all and move past it. He doesn't know how that gets formed. Somebody make a proposal.

Mr. Peck asked if he could make one suggestion. He thinks this Board should start following our attorney's advice. He recommended last week that our labor attorney look at this report before it was released; but to no avail and may have caught some of these issues. In any case if the labor attorney suggests they can come back with our processes spelled out for us he thinks that will be the best avenue going forward. We have a lot of attorneys here and he was once told that attorneys make the worst clients. We are starting to fight ourselves here by not following our attorney's advice in general.

Mr. Kusnierz said he has a question and doesn't know who can answer it, possibly administration. We have heard a lot of talk that we need to run it by the labor attorney. Prior to the time and a half decision that were made did anyone consult with our labor attorneys? We pay them a lot of money to stay on board. That is the first question. The second if they did, did the County heed their advice? Because that is not a flattering report.

Mr. Connolly said those are great questions and are exactly the type of questions that should be contemplated. But part of the due process, he thinks, some of these motions are putting the cart before the horse. Let's ask some of those really important questions and then deliberate among ourselves in a timely manner and get back to the important business of the County.

Mr. Lawler said he would like to go back to what Supervisor Wood said and what the labor attorney said, the advice they gave. And what they said was to follow our own rules, processes and policies. Because any deviations from that potentially opens the County up to a litigation claim. It would important to follow our own processes. But given the magnitude of this issues; the passion on both sides of this issue; the importance of this issue in dealing with a 32 year tenured employee; would it be possible within the rules and regulations that we have, that deals with this type of a problem, that we then rely heavily on the labor attorney, who has many examples of experience where they have been involved in situations like this and who could help us sort our way through, is there an offense that merits discipline. And if so what type of discipline. That would be a written report. He is hoping everyone could believe in the objectivity of our own labor attorney. If we follow our own rules and regulations we avoid the certainty of litigation, Mr. Hellwig's attorney is here, but he would suggest following

our own rules and for the sake of the determination and the outcome that our labor attorney make a recommendation regarding a. was their offenses/misconduct and b. if there was what should be the level of discipline. Mr. O'Connor asked if he could add one preliminary question to that. Mr. O'Connor said the first question should be under our procedural rules is an offense required to terminate an at will employee. He said he doesn't know the answer to that question. Mr. Lawler said that's a good question. Mr. O'Connor said he knows under the law an at will employee can be terminated for no reason but not for a bad reason. If it was a religion, you can't terminate. If it was a gender, you can't terminate. A statement of a matter of public concern, you can't terminate. Other items that might require a name clearing hearing as our attorney just said. The question isn't necessarily whether there was an offense but the first question is is an offense required under our rules to terminate.

Mr. Lawler said let's put it this way a good reason is reason is required because a bad reason is a problem. Would you agree with that? That the Board can terminate someone ... (supervisors speaking over each other)

Mr. O'Connor said the law, Jack, is you can terminate someone because the sky is blue. That's a bad reason in his view but it is not a violation of the constitution. Mr. Lawler said he would agree with that and he is suggesting that if we violate our own processes that is a problem. That is asking for a lawsuit. That's not due process. There is some suspicion between the two camps. Will the outcome be fair or reasonable? All he is suggesting is that the County has a labor attorney, he's our attorney, let's use him as the arbitrator and go from there.

Ms. Gaston asked Mr. Lawler if he minded if she ask the labor attorney a question. Mr. Lawler said someone should ask him if he thinks this is a good idea or a bad idea or if he is willing to do it.

Ms. Gaston said to the labor attorneys will following our own process, which she assumes we are talking about the normal policy and procedures written in the county's guideline, will that eliminate the risk of litigation? She said she is asking the labor attorney but thanked everyone for their noes.

Mr. Van Vessem said yes, the more you don't do those type of things; you don't follow your own procedures; you don't have a reason to clearly explain and understood and have a person the opportunity to respond among other things the more risk you are bearing for a likely suit. You can never fully protect yourself from a suit. Ms. Gaston said thank you as she was a little confused from his first answer. Second, will you in the course of your duties provide personnel recommendations and/or decisions or is that up to the Board to decide? There was no response. She didn't think that was a difficult question. The reason she asked is because in her professional non labor attorney opinion they are not going to provide us with what we should do with any particular employee as a result of the County. The job of a labor attorney just as the job of a county attorney or any other attorney is to advise as to the consequences of any particular action; not to say whether something should take place or not. She says this because that may impact how we rely on them. If we rely on them to provide a decision on what should take place with any employee that is absolutely, she won't say it won't happen, she doesn't believe it should happen. She doesn't believe that is appropriate use of our labor attorneys.

Mr. Lawler said he didn't hear an answer to the question Supervisor Gaston posed. He wanted to ask the question this way: in the course of your practice with your clients, do you from time to time make recommendations or suggestions to your clients as to what an appropriate discipline might be? Mr. Bernstein said yes, of course. Mr. Lawler said we have our own labor attorney who is willing to make a recommendation. We can follow our own procedures, listen to his recommendation which is shared with the Board and we can go from there.

Mr. Barrett said he has heard that we have rules, procedures and such so how is something like this initiated if not by the Board of Supervisors. Who would initiate? Somebody has to initiate a process so if it is ultimately a decision of the Board of Supervisors, who would initiate the process that we are talking about here?

Mr. Kinowski said wouldn't that be the Board back to the HR Committee. We can utilize them as we always do anyways. It's just another employee so we invoke them to review it and they in turn get the labor attorney. They, in turn, can even suggest because committees do this all the time, have a subcommittee. He would send it through the same processes we send every other employee.

Mr. Lawler asked Mr. Wood if he would take this on and start this process. Mr. Wood said certainly through the HR Committee. This is a little unique because we are talking about the County Administrator. Following policy and procedures they are usually done through the HR Department. In other words an issue would come up regarding a certain employee and then following the policy the employee would be notified what the problem is,

the employee is given the opportunity to respond back and there will be debate. Ultimately some resolution would occur. Normally it would be the HR Department and he as Chairman of the HR Committee would share information about particular cases here. In this situation if it was the pleasure of the Board to steer this through the HR Committee, he would be open to it and would rely heavily on the labor attorney for the County.

Mr. Barrett asked who was on the HR Committee beside himself. Mr. Wood said Supervisors Peck, Winney, Wright, Grattidge, Lucia and Lawler. Mr. Barrett named the supervisors. He said he will go back to his question. In Mr. Wood's opinion, how does something like this get initiated. Mr. Wood said he thinks it would either be a request from the Chairman just as there was for the internal report. The Chairman assigned that to the HR Committee and a subcommittee was formed. Mr. Kinowski said to Mr. Barrett and Mr. Connolly it would be fair distribution. We have some issues among certain supervisors agreeing with other supervisors. He can appreciate that. It's a good thing. He said to Mr. Wood that they have always done subcommittees. Subcommittees are always composed of members of that committee. In that case could you adopt a subcommittee of equal numbers of folks to help decision making or help review the situation and bring it back to the Board. Mr. Wood said just so he is clear, is Mr. Kinowski suggesting that the subcommittee be composed of not only regular HR Committee members but open it up to other supervisors. Mr. Kinowski said correct and would actually meet some of the concerns that have been suggested. It needs to be thought about and discussed. Time is on our side and there isn't a rush to this. He knows Mr. Connolly is looking for expeditiousness here but this is intense. It requires time and shouldn't be done so swiftly that errors occur.

Mr. Schopf said that is why he suggested a committee be comprised, as he doesn't think it's a secret that our Board is deeply fractured and that we need equal representation from both sides here. Ms. Winney asked Mr. Schopf to speak louder. He said his motion stated equal representation from both sides from what is now our deeply fractured Board to ensure there some aspect of perceived fairness on both sides of most of the issues.

Mr. Kinowski said that committee would have to be set up, standards made and everything that goes with establishing a new committee. He suggests this happen through an established committee. And then that committee makes those decision. Just a thought and could serve his purpose.

Ms. Gaston said could we not make the committee now. Mr. Schopf said we could form a committee now. Ms. Gaston said it may be hard but as a representative, she has 13,000-weighted vote herself. The entire HR Committee has 33,000-weighted vote. She would like there to be representation from across the County on that. Especially given there are a number of individuals concerned about the processes that are taken place, absolutely no offense to anyone that is on the HR Committee, she would like this process to be done appropriately and so that we are not continuing to question. And the only way to do that is to move forward. She doesn't see why we could not effectively set up a committee right now. Go in the corner, draw straws, why do we have to fight about this.

Mr. Connolly said he agrees with Tara. He thinks it should be hammered out right now. Supervisor Schopf would you consider withdrawing your motion if we were able to hammer out a subcommittee that would be agreed to by the HR Committee comprised of both larger towns and smaller towns. Knowing that we are going to be relying heavily on the labor attorney but at least all the sides are fairly represented in the subcommittee. Would you be willing to withdraw your motion if we could come to terms on subcommittee. Mr. Kinowski said he would agree.

Mr. Kusnierz said would the board be amenable to a five or ten minute moment where we stand at ease where each, there is definitely two sides here, can figure out three individuals from each side that would be a part of the committee so we can move this process forward.

Mr. Lawler asked if Mr. Schopf had answered Mr. Connolly's question if that committee is appointed would you withdraw your motion. Mr. Schopf said he didn't answer. He believes we have come to a process today and he listens more than he talks. He thinks if we reach a resolution where we have a fair and perceived impartial committee on both sides he certainly doesn't want to take any actions that would be against the advice of our labor counsel. He has listened to everything they have said. He believes that he can withdraw or modify that motion to hopefully come to a consensus that everyone can vote in favor of today.

Mr. Lawler said under the rules of the Board the Chairman is the sole authority to appoint committees. Having said that he would make one recommendation to the Chairman. Committees are typically 7 people. He would suggest, and it's the Chairman's decision, the one person who has exhibited the most willingness to be open-

minded. He believes, Supervisor Connolly has distinguished himself in his levelheadedness approach to this. But it is the up to the Chairman. He believes 3 and 3 with Eric, personally he would be comfortable with that. Mr. Wood said he thinks it should be a special committee appointed by the Chairman and agrees with Supervisor Lawler.

Mr. Kusnierz asked the Chairman if he would be willing to accept recommendations. Mr. Allen said yes as he does not want to put anyone on this committee that does not want to be on it.

Mr. Schopf suggested the Board stand at ease and bring forward names and give Supervisor Connolly time to consider whether he even wants to do this. And how many number of should be on the committee.

The Board is at ease.

After about ten minutes, the Board resumed.

Mr. Allen said Mr. Schopf you had a motion on the floor. Do you withdraw that motion? Mr. Schopf said that after the break and the discussion, he would agree to withdraw the prior motion and he has a new motion. For the Chair of the Board to constitute a committee, appoint several supervisors to that committee of which I will make recommendations. The scope of the committee would be to analyze the external report prepared by Attorney Neidl and to work with our Labor Counsel to determine what disciplinary actions the County is able to be taken against employees named in the external report as well as to make recommendations to the committee and ultimately to the Board of Supervisors as to what actions should be considered by the Board as appropriate to various employees. My recommendations for that committee as discussed would be for Supervisor Connolly to act as the Chair, Supervisor Kinowski, Supervisor Peck, Supervisor Zlotnick, Supervisor Barrett, Supervisor Kusnierz and Supervisor Gaston to constitute a 7-member committee. Thank you.

Mr. Kusnierz said he would second that motion and that motion is to add it to today's agenda. Mr. Schopf said he would clarify that it is to add it to the agenda.

Mr. Allen said a resolution is not needed as he could just appoint the committee. Mr. Peck said for clarification our labor attorney is Goldberg Segalla. Mr. Schopf said yes his motion was regarding the report prepared by Attorney Neidl.

Mr. Allen said he would appoint that committee to investigate what we are discussing.

Mr. Schopf said if he might suggest that this be done as a motion so the perimeters that he laid out are clear and on the record as proposed in a resolution.

Mr. Kusnierz said he would second the motion to add it to today's agenda.

Mr. Grattidge said if he understands the motion correctly, the County Administrator is not the only person being singled out. You are opening it up to everyone named in the report. Mr. Schopf said correct.

On a motion by Mr. Schopf, seconded by Mr. Kusnierz the following motion was unanimously added to the agenda for today's meeting: the Chair of the Board to constitute a committee, appoint several supervisors to that committee of which I will make recommendations. The scope of the committee would be to analyze the external report prepared by Attorney Neidl and to work with our Labor Counsel to determine what disciplinary actions the County is able to be taken against employees named in the external report as well as to make recommendations to the committee and ultimately to the Board of Supervisors as to what actions should be considered by the Board as appropriate to various employees. My recommendations for that committee as discussed would be for Supervisor Connolly to act as the Chair, Supervisor Kinowski, Supervisor Peck, Supervisor Zlotnick, Supervisor Barrett, Supervisor Kusnierz and Supervisor Gaston to constitute a 7-member committee.

Mr. Schopf made a motion to adopt the resolution previously added to the agenda. Mr. Connolly seconded. Mr. Schopf asked for the resolution number. Mrs. Wright said the next resolution number would be 180. Mr. Schopf said he would move Resolution 180 for adoption to today's amended agenda. Mr. Connolly had seconded.

Mr. Peck said can I ask one question? Maybe our Labor attorney can weigh in. What's the authority, are we a recommending body, are we the judges and jury, we would make Connolly the judge all the better as the chairman. Or are we making a recommendation to the full Board or the HR.....

Mr. Schopf said his motion is to make recommendations as to the legal scope of the actions that we can take as well as potential disciplinary actions but ultimately any decision would rest with the Court.

Mr. Lawler said he had a question on the motion, What he had suggested, and perhaps it's not in your motion intentionally but he had though rather than, he thought we were looking for recommendations, he wanted to be clear that's the intent of your resolution, that we would look to the labor attorney who has said he has given advice in situations like this before, as to what discipline, if any, would be appropriate, and he believed that when we had our back and forth about this it was to use the attorney to make a recommendation, granted a recommendation is not binding on anybody, but that the attorney would make a recommendation as to what would be appropriate, discipline, if any discipline. Is that, is he understanding that correctly?

Mr. Connolly said yes, you Jack, Supervisor Lawler you are. What we discussed is once those options are presented to us by the Labor Attorney, then we'll discuss as a subcommittee what those options are, and we'll deliberate, we'll agree and then we'll present what option we feel is most appropriate to the full Board.

On a motion by Mr. Schopf, seconded by Mr. Connolly Resolution #180 was adopted by the following vote:
AYES (217559): Preston Allen (856), Philip C. Barrett (18352.5), Eric Connolly (9776), Alan Grattidge (4133), Richard Lucia (6531), Daniel Pemrick (7775), Jean Raymond (1214), Jonathon Schopf (18352.5), Michael Smith (3545), Kevin Tollisen (21535), Darren O'Connor (14765), Thomas Richardson (5196), Benny Zlotnick (18575), Theodore Kusnierz (14728), Willard H. Peck (5087), Sandra Winney (1995), Tara Gaston (13293), Matthew E. Veitch (13293), Thomas N. Wood, III (5674), Edward D. Kinowski (8287), John Lawler (8423).
John Lant (16173).
NOES (2048) Arthur M. Wright (2048)

RESOLUTION 180 - 2020

Introduced by Supervisor Schopf
Seconded by Supervisor Connolly

CREATING A SPECIAL COMMITTEE

RESOLVED, that a special committee is hereby created to analyze the report of investigation of the law firm of Jones Hacker Murphy LLP regarding the pay increases and decreases paid to County employees during the period March 16, 2020 – April 2, 2020 with the assistance of the County's labor counsel, Goldberg Segalla; to receive recommendations from said labor counsel as to what, if any, disciplinary action may be appropriate against any employee named in the report; to determine and formulate recommendations of the committee to the Board of Supervisors as to what disciplinary actions, if any, may be appropriate against employees named in the report; and to convey such recommendations of labor counsel and the committee to the Board of Supervisors; and, be it further

RESOLVED, that the following members are hereby appointed to the special committee:
Supervisor Eric Connolly, Committee Chair
Supervisor Philip Barrett
Supervisor Tara Gaston
Supervisor Edward Kinowski
Supervisor Theodore Kusnierz
Supervisor Willard Peck
Supervisor Benny Zlotnick

BUDGET IMPACT STATEMENT: No budget impact.

Ms. Gaston said the reason she requested a roll call vote earlier is because toward the end of the Saratoga County Board of Supervisor Agenda meeting on August the 12th she requested recognition for the purposes of approving the public release of the internal document regarding increased compensation during the County's response to

COVID 19. Given the Board had just enacted a waiver of privilege and released the external report the request was consistent with maintaining accountability and transparency to the residents of Saratoga County. However, at the time, she requested recognition; Vice Chairman Pemrick refused to recognize me and called for the adjournment of the meeting. As is clear from the audio of the meeting, she continued to request appropriately that the Vice Chairman recognize her as a duly elected representative of the City of Saratoga Springs. Instead, he continued to speak loudly over her and adjourned the meeting. After the meeting she requested an apology for the unacceptable lack of procedure and respect due an elected Supervisor and to County residents were broadly, especially given that earlier in the meeting another Supervisor had told the Vice Chairman as described in the minutes “there will not be a motion to adjourn right now” and the Vice Chairman acquiesced without question. To this date she has not received any communication much less an apology from the Vice Chairman nor any other member of County Leadership and she would therefore like this misuse of rules, misuse of the power in an attempt to quiet her representation on the record. In addition she would like it noted that neither the external nor the internal report have been publicly released and are not available on the County’s social media, website or any other method. Thank you.

On a motion by Mr. Wright, seconded by Mr. Kinowski the meeting was adjourned by a unanimous vote.

Respectfully Submitted,

Pamela Wright
Clerk of the Board