

BOARD OF SUPERVISORS SENECA COUNTY

Waterloo, New York 13165

Special Board Meeting Minutes – corrected 8/7/23**
June 27, 2023

Call to Order

Chairman Enslow called the special meeting to order at 6:20 p.m.

Roll Call of Members by the Clerk

Fourteen members of the Board of Supervisors answered roll call.

Pledge of Allegiance and Moment of Silence

RESOLUTIONS & MOTIONS

Chairman Enslow stated that they were going to skip the order of resolutions and asked Sprvr. J. Trout to start with resolution HRGO #5 (RES 169-23). Sprvr. Trout then read the resolution aloud and Sprvr. Ferrara made a motion and Sprvr. Rhinehart seconded the motion.

BOARD OF SUPERVISORS AUTHORIZES COUNTY ATTORNEY TO INVESTIGATE, ENGAGE COUNSEL, AND COMMENCE ANY AND ALL LITIGATION TO ENJOIN IMPLEMENTATION AND ENFORCEMENT OF THE 2023 MODIFICATION AND AMENDMENT OF NEW YORK RACING, PARI-MUTUEL WAGERING AND BREEDING LAW § 502

RESOLUTION NO. 169-23, moved by Sprvr Ferrara, second by Sprvr. Brownell and adopted.

WHEREAS, the Western Regional Off-Track Betting is a Public Benefit Corporation that is owned by fifteen (15) Counties, including Seneca County, as well as the cities of Buffalo and Rochester; and

WHEREAS, the Western Regional Off-Track Betting Corporation (WROTBC) is one of five regional OTB corporations established and financed by their respective municipal sponsors following the enactment of permissive legislation by New York State in 1973; and

WHEREAS, following the creation of said WROTBC in 1973, the Seneca County Board of Supervisors, by Resolution No. 136 determined that is in the best interest of the people of Seneca County for our County to participate and be a member of the Western Regional Off-Track Betting Corporation; and

WHEREAS, the actions of the Seneca County Board of Supervisors in its municipal sponsorship specifically provided that it was subject to permissive referendum and became effective in accordance with Section 24 of the Municipal Home Rule Law of the State of New York; and

WHEREAS, on May 2, 2023 as a part of the New York State Budget, changes were affected through the 2023-2024 Budget process and amendments to N.Y. Rac. Pari-Mut. Wag. & Breed. Law § 502, where control of WROTBC was taken from the founding counties and given to Erie County, Monroe County, City of Buffalo, and the City of Rochester through weighted voting by all of the WROTBC members; and

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WHEREAS, Article IX, Section 2(b)(2) of the Constitution (the "Home Rule Law") restricts the State legislature's ability to act in relation to the "property, affairs or government" of any local government, the Municipal Home Rule Clause (NY Const, art IX, § 2 [b] [2]) provides that the Seneca County Board of Supervisors: "Shall have the power to act in relation to the property, affairs or government of any local government only by general law, or by special law only (a) on request of two-thirds of the total membership of its legislative body or on request of its chief executive officer concurred in by a majority of such membership, or (b), except in the case of the city of New York, on certificate of necessity from the governor reciting facts which in the judgment of the governor constitute an emergency requiring enactment of such law and, in such latter case, with the concurrence of two-thirds of the members elected to each house of the legislature"; and

WHEREAS, it is unknown whether Governor's message of necessity comported with the New York State Constitution, in particular, article III, § 14. That provision requires that bills be "printed and upon the desks of the members" of the Legislature at least three (3) calendar legislative days before final passage (N.Y. Const., art. III, § 14); although, this mandate may be circumvented if the Governor "certifie[s] ... the facts which in his or her opinion necessitate an immediate vote" on the bill (N.Y. Const., art. III, § 14). It is unknown whether any facts are stated by the Governor in a certificate of necessity that form the basis in her opinion that necessitated an immediate vote; and

WHEREAS, the New York State Court of Appeals recognized in *Matter of Moran v. La Guardia*, 270 N.Y. 450, 452 that "To repeal or modify a statute requires a legislative act of equal dignity and import." Nothing less than a Home Rule Message from a majority of the founding counties will suffice, i.e. "the doctrine of Legislative Equivalency". The doctrine of legislative equivalency has uniformly been applied with respect to the modification and or amendment of prior legislation; and

WHEREAS, none of the founding counties, including Seneca County, enacted Home Rule Messages requesting that N.Y. Rac. Pari-Mut. Wag. & Breeding Law § 502, be modified and/or amended, and never authorized a relinquishment of control of WROTB to Erie County, Monroe County, City of Buffalo, and City of Rochester; and

WHEREAS, Batavia Downs is located in the Town and City of Batavia in a residential area and this is an important quality of life issue for the host County of Genesee to not be negatively impacted by any change to the Board of Directors make up, and

WHEREAS, Seneca County as the host of del Lago Resort and Casino has a critical interest in all matters related to gaming and its impact both locally and regionally; and

WHEREAS, this Resolution has been reviewed and approved by the Human Resources and Government Operations Standing Committee on June 27, 2023; now, therefore be it

RESOLVED, that the Seneca County Attorney is hereby authorized to commence all necessary litigation to enjoin implementation and enforcement of the 2023 modification and or amendment to N.Y.

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Rac. Pari-Mut. Wag. & Breed. Law § 502, passed on May 2, 2023 and name the following as potential Defendants in such legal action, The State of New York, the Governor of the State of New York, the Assembly of the State of New York, and the Senate of the State of New York, and any other party deemed necessary to bring full relief to the residents of Seneca County.

Chairman Enslow stated that they were going to skip the order of resolutions and asked Sprvr. J. Trout to start with resolution HRGO #6 (RES 171-23). Sprvr. Trout then read the resolution aloud and Sprvr. Brownell made a motion to pass the resolution and Sprvr. Kronenwetter seconded the motion

SENECA COUNTY HEALTH DEPARTMENT TO PURCHASE ONE (1) 2024 FORD EDGE SE AWD

RESOLUTION NO. 171-23, moved by Sprvr J. Trout, second by Sprvr. Brownell and adopted.

WHEREAS, the Seneca County Health Department is requesting to buy one (1) 2024 FORD Edge SE AWD; and

WHEREAS, the Seneca County Health Department will be purchasing this vehicle from Van Bortel Ford, 71 Marsh Road, East Rochester, New York 14445 off the NYS Marketplace Contract No. 34527 award no. 23166; and

WHEREAS, funds for the purchase of one (1) 2024 Ford Edge SE AWD for the amount of \$38,112.60 per vehicle is available in the 2023 Health Department Budget Account 104010-52600; and

WHEREAS, the Health & Human Services Standing Committee reviewed and approved this resolution at their June 27, 2023 Meeting; now therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby authorize and direct the Seneca County Manager to purchase a 2024 Ford Edge SE AWD in the amount of \$38,112.60 with funds appropriated from the 2023 Public Health Department Budget.

MOTION MADE AND SECONDED

Sprvr. J. Trout made a motion for the Boar to enter executive session under open meetings law section 105 (1) (f) to review the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismal or removal of a particular person or corporation. Only the Board of Supervisors were asked to attend the executive session. Sprvr. Barnhart seconded the motion. Sprvr. Enslow stated that there would be action.

The Board entered executive session at 6:20pm, the executive session ended at 6:40pm.

The Board entered regular session at 6:41pm.

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Sprvr. J. Trout read the HRGO #4 resolution (RES 170-23) aloud, and Sprvr. Rhinehart made a motion to pass the resolution and Sprvr. Ferrara seconded the motion. Sprvr. J. Trout made a motion to amend the resolution by adding a resolved clause authorizing the Chairman of the Board to execute the employment contract with the Deputy County Manager. Sprvr. D. Trout seconded the motion.

BOARD OF SUPERVISORS APPROVES THE CREATION AND FILLING OF ONE (1) FULL-TIME TEMPORARY DEPUTY COUNTY MANAGER POSITION EFFECTIVE IMMEDIATELY

RESOLUTION NO. 170-23, moved by Sprvr Rhinehart, second by Sprvr. Ferrara and adopted.

WHEREAS, the County has undertaken a recruitment effort for the next County Manager; and

WHEREAS, the Board of Supervisors has identified the need to create and fill one full-time Temporary Deputy County Manager position to help with the succession planning and transition of the County Manager's duties; and

WHEREAS, an Amendment to the 2023 County Budget is necessary to provide for this temporary position; and

WHEREAS, this position has been reviewed and approved by the Vacancy Committee and the Human Resources & Government Operations Standing Committee on June 27, 2023; now, therefore be it

RESOLVED, that the Board of Supervisors approve the creation and filling of one (1) full-time temporary Deputy County Manager position at an annual salary of \$130,000; and be it further

RESOLVED, that the position of Deputy County Manager will expire upon successful transfer to the position of County Manager, anticipated to be no later than December 12, 2023; and be it further

RESOLVED, that the Finance Department is authorized to make the following budgetary and accounting entries consistent with the intent of this Resolution:

Decrease:	10190-54700	\$74,360
Increase:	101015-51100	\$65,000
Increase:	101015-58100	\$ 3,900
Increase:	101015-58300	\$ 4,030
Increase:	101015-58600	\$ 845
Increase:	101015-58700	\$ 585

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MOTION MADE AND SECONDED

Sprvr. J. Trout made a motion to authorize the Chairman of the Board of Supervisors to execute an employment contract with Kyle Lovell, for Deputy County Manager effectively immediately with the start date of the Deputy County Manager being June 28, 2023. Sprvr. D. Trout seconded the motion.

**BOARD OF SUPERVISORS AUTHORIZES AND DIRECTS
CHAIRMAN OF THE BOARD TO EXECUTE THE EMPLOYMENT CONTRACT
WITH KYLE LOVELL, DEPUTY COUNTY MANAGER**
RESOLUTION NO. 170A-23, moved by Sprvr J. Trout second by Sprvr. D. Trout and adopted.

RESOLVED, that the Board of Supervisors authorizes and directs the Chairman of the Board to execute the employment contract with Kyle Lovell effectively immediately, with the start date of the Deputy County Manager being June 28, 2023

New Business

None

Unfinished Business

None

Special Order of the Day

The Special Board meeting adjourned at 6:48 p.m. Sprvr. D. Trout made a motion to adjourn, and Sprvr. Barnhart seconded the motion.