

AGENDA DOCKET
LIVINGSTON COUNTY BOARD OF SUPERVISORS REGULAR BOARD MEETING
WEDNESDAY, JUNE 28, 2023
1:30 P.M.



ROLL CALL

PLEDGE OF ALLEGIANCE

West Sparta Supervisor Sue Erdle

APPROVAL OF MINUTES

Minutes of 6/14/23 Regular Meeting

COMMUNICATIONS

1. The next Conversation with the County will be held on Thursday, June 29, 2023--5:30 p.m. at the Groveland Town Hall, 4955 Aten Road, Groveland.
2. The NYSAC Fall Seminar is September 13-15, 2023. Let the Clerk know today if you will need accommodations.

ABSTRACT OF CLAIMS

RESOLUTION NO. 2023-238 APPROVING ABSTRACT OF CLAIMS #6B-JUNE 28, 2023

RESOLVED, that the Livingston County Board of Supervisors approves the Abstract of Claims #6B dated June 28, 2023 in the total amount of \$1,966,932.26.

Dated at Geneseo, New York

June 28, 2023

Ways and Means Committee

PRIVILEGES OF THE FLOOR

ASSEMBLYWOMAN MARJORIE BYRNES

-133rd Assembly District Woman of the Year – Lynne Mignemi

RESOLUTIONS

WAYS & MEANS COMMITTEE

Clerk of the Board

1. AMENDING RESOLUTION NO. 2023-150 (2023 EMPLOYEE RECOGNITION-PARTYMAN CATERING & RENTAL)

WHEREAS, Resolution No. 2023-150 authorized the Chairman of the Livingston County Board of Supervisors to sign a contract with Partyman Catering & Rental for the 2023 Employee Recognition event. Said contract was for an amount not to exceed \$5,000.00; and

WHEREAS, due to a higher attendance response than anticipated, there is now a need to increase the contract amount by \$1,000.00; now, therefore, be it

RESOLVED, that the Chairman of the Livingston County Board of Supervisors is hereby authorized to sign a contract amendment with Partyman Catering & Rental to increase the contract amount to an amount not to exceed \$6,000.00; and be it further

RESOLVED, that Resolution No. 2023-150 is hereby amended.

Dated at Geneseo, New York

June 28, 2023

Ways and Means Committee

County Administrator/Budget Officer

2. AMENDING 2023 LIVINGSTON COUNTY BUDGET: DEPARTMENT OF HEALTH, PLANNING & SHERIFF

RESOLVED, that the Livingston County Treasurer is authorized and directed to make the requested Budget Amendments per the Budget Amendment entries that have been approved by the Livingston County Administrator.

Dated at Geneseo, New York

June 28, 2023

Ways and Means Committee

3. **ESTABLISHING AN ACCOUNT: PLANNING**

RESOLVED, that the Livingston County Treasurer is authorized and directed to establish a new account per the electronic entries that have been approved by the Livingston County Administrator.

Dated at Geneseo, New York

June 28, 2023

Ways and Means Committee

County Attorney

4. **RESOLUTION AUTHORIZING LIVINGSTON COUNTY TO INVESTIGATE, ENGAGE COUNSEL, AND COMMENCE LITIGATION TO ENJOIN IMPLEMENTATION AND ENFORCEMENT OF THE 2023 MODIFICATION TO SECTION 502 OF THE NEW YORK STATE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW**

WHEREAS, in July of 1973, New York State enacted Chapter 346 of the Laws of 1973 to create regional off-track betting corporations in an effort to curb unlawful bookmaking and other illegal wagering and to provide an added source of revenue for participating local governments and the State; and

WHEREAS, when originally enacted, Section 502 of the Racing, Pari-Mutuel Wagering and Breeding Law required regional off-track betting corporations to "be administered by a board of directors....one member from each...participating county." Said members were to be appointed by the county governing body. The mayor of a city was also permitted to appoint a single member to the board with the approval of the city's legislative body. Each appointed member had one vote and all votes were allotted equal weight thereby giving each participating jurisdiction equal control over the operations of the regional off-track betting corporation; and

WHEREAS, in response to the newly enacted legislation, the Western Regional Off-Track Betting Corporation ("WROTB") was established in September 1973 as a public benefit corporation with headquarters in Batavia, New York. Eleven counties and two cities initially chose to participate in the management and administration of WROTB. Between 1976 and 1979 four additional counties elected to take part in the corporation. The participating counties included: Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Oswego, Schuyler, Seneca, Steuben, Wayne and Wyoming. The two participating cities were the City of Rochester and the City of Buffalo; and

WHEREAS, as for Livingston County, on July 11, 1973, the Board of Supervisors passed Resolution No. 73-158 authorizing the County to participate in WROTB. Said Resolution specifically provided that it was being adopted subject to permissive referendum and would become effective in accordance New York State Municipal Home Rule Law Section 24; and

WHEREAS, on May 2, 2023, as a part of the New York State Budget, Section 502 of the Racing, Pari-Mutuel Wagering and Breeding Law was amended to create Section 502-a specific to WROTB. It terminated the appointments of all existing members of the WROTB Board of Directors and required vacant board positions to be replaced with new appointments. Newly appointed members now vote according to the newly established weighted voting procedures found in Section 502-a. This weighted voting system no longer allows for the founding counties to exercise equal operational control over WROTB as voting power is now concentrated among the board members from Erie County, Monroe County, the City of Buffalo, and the City of Rochester; and

WHEREAS, Article IX, Section 2(b)(2) of the New York State Constitution restricts the State Legislature's ability to act in relation to the "property, affairs or government" of any local government. It specifically states the Legislature:

(2) 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 the Governor's message of necessity comported with the New York State Constitution, in particular Article III, Section 14. That provision requires bills to be “printed and upon the desks of the members” of the Legislature at least three calendar legislative days before final passage. 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. It is unknown whether the Governor stated any facts in a certificate of necessity that form the basis of her opinion that necessitated an immediate vote; and

WHEREAS, in *Matter of Moran v. La Guardia*, 270 N.Y. 450 (1936), the New York State Court of Appeals recognized that “To repeal or modify a statute requires a legislative act of equal dignity and import.” Essentially, a law can only be amended by the same procedures that were used to enact it originally. Nothing less than a Home Rule Message from a majority of the founding counties would have satisfied “the doctrine of Legislative Equivalency”; and

WHEREAS, none of the founding counties, including Livingston County, enacted Home Rule Messages requesting Section 502 of the Racing, Pari-Mutuel Wagering and Breeding Law be modified and/or amended, and certainly never authorized a relinquishment of control of WROTB to Erie County, Monroe County, the City of Buffalo, and the City of Rochester; now, therefore, be it

RESOLVED, that the Livingston County Board of Supervisors hereby authorizes all necessary litigation to enjoin implementation and enforcement of the 2023 modification to Section 502 of the Racing, Pari-Mutuel Wagering and Breeding Law passed on May 2, 2023 and to name the following as potential Defendants in such legal action: New York State, the Governor of New York State, the New York State Assembly, the New York State Senate, and any other party deemed necessary to bring full relief to the residents of Livingston County.

Dated at Geneseo, New York

June 28, 2023

Ways and Means Committee

OTHER BUSINESS

1. CHAIRMAN APPOINTMENT

Livingston County Youth Board			
Name	Address	Title/Represents	Term Expires
Lorilyn Doe	6243 Moose Hill Road, Dansville, NY 14437	Town of Sparta	At Pleasure

2. 26TH ANNUAL EMPLOYEE RECOGNITION CEREMONY - HONORING EMPLOYEES WITH 10 AND 25 YEARS OF FULL-TIME SERVICE

ADJOURNMENT