

**SPECIAL BOARD MEETING  
WEDNESDAY, JUNE 4, 2020  
1:30 P.M.**

**ROLL CALL**

The roll was called showing all members present except Mr. Pangrazio, (Caledonia).

**PLEDGE OF ALLEGIANCE**

Nunda Supervisor Merilee G. Walker led the Pledge of Allegiance.

Chairman LeFeber made the following statement:

*I have confirmed with the County Attorney that today's meeting has been convened in accordance with the Governor's March 13, 2020 Executive Order 202.1, which suspends certain provisions of the Open Meetings Law to allow a County Board of Supervisors to convene a meeting remotely.*

*In accordance with the Executive Order, the public has been provided with the ability to hear today's Board of Supervisor meeting through Zoom and a transcript will be provided at a later date.*

*I have done a roll call of the Board Members and there is a quorum present for this meeting.*

*I have also confirmed with the Clerk of the Board that this meeting has been duly noticed.*

*We have fulfilled our legal notice requirements by posting Notice on the County's home page of its website, on the County's Facebook Page, and through announcement on the County's Twitter account.*

*We are meeting today via teleconference as there is a need to conduct essential County business without creating the need for any type of in-person gathering during this Covid-19 health crisis.*

*I ask that all attendees mute their phones until such time as they are asked to respond or present.*

*Today's meeting is meant to address only those matters that do not fall within the orders of Emergency Order 2020-4.*

*The Livingston County Rules of Order allow for resolutions to be approved without having been presented to their home committee.*

*Any resolutions today will be presented through Committee of the Whole.*

**PRIVILEGES OF THE FLOOR**

**DISCUSSION OF REOPENING PROCESS IN LIVINGSTON COUNTY  
-BOARD OF SUPERVISORS**

Chairman LeFeber reminded everyone that there will be no public participation in today's meeting. There will be an in-person Board of Supervisor's meeting on June 10. The Clerk will distribute the protocol to be followed at that the meeting. The Chairman met yesterday with Angela Ellis and Michele Rees to discuss policy and procedures that will be followed with the reopening of the Government Center Building on June 8. There was also discussion on opportunities for reducing costs in our department and discussing those opportunities as a group with the Supervisors to reduce costs. The Governor is asking for a statewide moment of silence in respect to the George Floyd incident and the Chairman may have to interrupt to follow that lead by the Governor and suspend conversation if we are still in session.

Chairman LeFeber stated that we are here today for one purpose, to discuss reopening Livingston County. There has been a lot of frustration and miscommunication that has been conveyed to our regional control room and Albany by the Chairman and County Administrator. In a conference call discussion on Monday with the Supervisors and it was decided to call for a Board meeting today. Many constituents have reached out to the Board members to take some action. The authority we have as a board is thoroughly questionable. Our team and partners in the community has done well with protocol and safety and such a great job that, as of today we only have 2 active cases in the County. The Chairman asked that the Supervisors have some robust discussion today to determine what actions we can actually take or may want to take as a Board to promote activity in our County but also being mindful of everyone's health and safety going forward.

Chairman LeFeber opened the floor for Supervisors discussion.

The statement was made that all businesses should have the ability to open and should be encouraged to do that starting tomorrow and that no County resources or assets should be spent on enforcing any more phase stuff, specifically helping restaurants and those things. Folks who have a state license like a bar or hairdresser would definitely need to be aware of the State enforcing any licensing. The responsibility to handle reopening and state licensing would be the sole risk of the businesses. Although outdoor seating is able to be done now, it does not mean businesses are going to be able to turn it over overnight. The request for this meeting last week asking that the community be opened up was to move forward without waiting on the Governor to make a decision at the last minute. Many members of this Board of Supervisors are self-employed and understand what it's like to have your pay cut off. Businesses have done an incredible job trying to adjust to whatever the new normal is going to be with very little guidance. Some Supervisors spoke in favor of doing away with the phases in Livingston County allowing these businesses to open up and not going to enforce these phases here based on the facts heard Public Health Director Jennifer Rodriguez. Our metrics are much better than anywhere else with two active cases in Livingston County out of more than 65,000 people. While the Supervisors don't have the power that the Governor has, as 17 Supervisors they do have the power to tell the taxpayers and business owners that they stand with you and whatever your decision is, is what we are going to support, but it is you, the business owners decision and your risk. It is unknown what is going to happen in a week and the County is going to lose a lot of businesses. There are people that have spent, like hair salons last week, their last dollars on their shields and their sneeze guards and plexi glass walls between their stylists.

The Board of Supervisors reiterated that they are 100% in full support of reopening County businesses. A large concern is risk versus reward. There was discussion on the businesses that are obviously already open and our restaurants that are already geared up for reopening with spacing inside their restaurants. Supervisors that went to restaurants and bars in their towns reported that those businesses were unwilling to risk their license. These businesses would like to reopen as soon as possible, but they are continuing to go by the executive order. The business owners are taking the chance all by themselves but the County will supply them with PPE needs to open, which may leave the County liable for what happens to their business in the near future. There was discussion on sending something to Albany making it very clear what our numbers are, that we've following State direction to date and we shouldn't be sitting here waiting for the Governor to make some sort of decision for Livingston County. There was discussion on legality for the County to authorize businesses to open up or, if opened where is Health Department compliance and state guidelines. There was also discussion on the covid cases as a result of the Memorial Day weekend and the concern that we may see an infection spike two weeks after the Memorial Day weekend if people didn't follow the protocol. There was discussion on what there is to gain if the County tells businesses to reopen ahead of Phase 3 and 4 and New York State goes after them or the County for it.

### **MOTION**

*Mr. Gott moved and Mr. Wadsworth seconded that Livingston County reopens and not only reopen but we not use any County resources for enforcement and that Livingston County resign from the regional control room.*

There was discussion on having the County Administrator and County Attorney to draft the text of the resolution for review. With a start date of tomorrow the Board would need to convene later today to vote on this resolution. There was further discussion the motion and being able to review the resolution before voting. The question of costs from a financial point of view and an operational point of view was asked if we do have a spike in positive cases by opening up.

County Attorney Shannon Hillier stated that her professional opinion is that the risk is not worth the reward. There is concern if this activity is going to cause a spike in our county and something happens, whether it be a death of a child or elderly individual or if someone becomes really sick and all of a sudden there is blow back to the County for liability and whether NYMIR will cover the County in that instance because we completely disregarded the executive orders of the Governor. Ms. Hillier is also concerned about businesses being stuck in the middle, not knowing who to listen to, with the state saying one thing and the local county government saying another. Every time the Governor does allow businesses to open, behind that comes regulatory framework that gives people guidance on what they are supposed to do upon reopening. By reopening without State approval there will be no guidance coming behind this reopening of the entire county and every business it would be a free for all. Ms. Hillier is also concerned on where reopening early

puts our Health Department if we begin having large gatherings, graduations or weddings of 200+ people, and the Public Health Director's ability to enforce, is she expected to enforce, how does she enforce, she has the state that she has to answer to.

There was discussion on people making decisions themselves in holding large gatherings in a smart responsible manner. The County needs to be very careful here supporting our businesses with some kind of intelligent plan moving forward.

County Attorney Shannon Hillier explained that it is a very important distinction; saying you may, we support you, being different than saying Livingston County is hereby open and all businesses can resume.

**Moment of Silence**

Chairman LeFeber requested a moment of silence in respect to the George Floyd incident

There was discussion on how discouraging it is for our business owners to watch the protests going on where thousands of people are gathered and yet they can't open their businesses. There need guidelines if we are to reopen and specifics for the businesses. There are many grants written up every year and the possibility of the state coming back on the Towns and County if we go against the executive order. There are a lot of new businesses trying to come in to towns and we can't answer them unless we have some facts and figures. It's important to put people back to work and get them back on schedule but we have to do it right and legal. If it is not legal everyone is going to get into trouble and neither the County nor the people can afford that.

Ms. Rodriguez, Public Health Director reviewed the Department of Health standards and New York State Department of Health guidelines. Although the Health Department does not have to reissue permitting for those restaurants that have been closed during the Covid Pandemic, they can open and can open for outdoor dining, however, if the County reopens them they would be in violation of the executive order and she is not sure if the County has the authority to override the executive order. At that point, there would have to have Health Department enforcement because serving indoors is currently considered an imminent threat to public health and there would need to be clarification with the County Attorney on what the legal authority would be in that case. If we did enforcement it could be a soft touch enforcement that is educational but she wouldn't want to have mixed messaging if we are stating that we are not enforcing but our local health department is charged with enforcing indoor dining.

County Attorney Shannon Hillier stated that Livingston County does not have the authority to override the Governor's executive order. It is his state power. Ms. Hillier reviewed an example of what happened when the Town of Greece tried to open with outside dining before it was permitted.

There was discussion on the importance of listening to legal counsel guidance to protect the County. Our numbers are great and the reason they are is because we are following the guidelines, doing what we need to do and what we are told by Albany we should be doing. There was discussion on the County drafting a stern letter to the state stating our position supporting the businesses, touting our numbers and make it very clear what they are and see if we can push Phase 3 along for restaurants, bars and so on to open up.

Mr. Gott clarified that he is suggesting that Livingston County send a clear message to the people that we should care most about and that's the people that are here that do business in Livingston County, live in Livingston County so that's why the motion is made today.

There was discussion on if we open the floodgates and the swarm comes in, our numbers start to fluctuate; what do we do then if we made this decision. The risk isn't worth the reward. We have a short period of time to wait. The question was asked of the County Attorney or the Public Health Director, if we do spike again where are we looking in September with our kids going back to school?

Public Health Director Jennifer Rodriguez explained that, from a health department standpoint that, if we do get

additional cases and there is a surge in any particular area, there could be a potential hindrance depending on the area, for schools. The schools are mandated by government order, but there are Department of Health restrictions when the school is open and there is a covid case. The school would have to remain closed for at least 24 hours until they have a thorough cleaning and there would be additional contacts that would be placed on quarantine. This is in the event that schools are reopened.

County Attorney Shannon Hillier expressed concern from the legal side if there is a spike because of these actions, where does that leave us with FEMA reimbursement and having to address an increase in testing, an increase in the quarantine process and all things that come out of that. County liability of the families impacted by the loved one who passes away or who becomes so sick would also need to be determined and whether they would commence action against the County because we disregarded the whole pandemic and the framework put in place by the Governor. There was discussion on how Livingston County could bring great liabilities, not only in health spikes, but also in the fines that the Governor could levy on to these businesses up to \$10,000 that would put a lot of these business over the edge that are still hanging on and out of business; Exactly the opposite of what our intentions are. The pressure that was put on the Governor for Phase 2 did allow him to get off center and open things up again.

Our directions and our motives ought to be in putting great pressure on the Governor to open Phase 3 and 4 if our county numbers are good and joining with other counties of like numbers putting pressure on the Governor through our control room. We would lose all say, whatsoever, in the process were to get out of our control room. NYSAC is representing the counties in New York State and they should be lobbying on our behalf to open these businesses earlier than they are scheduled to do. We all support our businesses and understand how treacherous it is for them right now financially in being closed this long and we need to get them open. Our position should be in lobbying the Governor so that it is done in a legal fashion, so that he does give approval to move forward.

There was discussion on the proper procedures moving forward with the motion currently on the floor by Mr. Gott and whether a resolution should be prepared for review before voting or if a vote should take place today.

Chairman LeFeber stated that we have to honor the motion and second on the floor.

### **MOTION**

*Mr. Gott moved and Mr. Wadsworth seconded that Livingston County reopens and not only reopen but we not use any County resources for enforcement and that Livingston County resign from the regional control room.*

There being no further discussion Chairman LeFeber asked the Clerk of the Board to call roll.

The roll was called as follows: Ayes-Wadsworth, 308; Falk, 139; Gott, 242; Total 689; Noes-LeFeber, 224; Wester, 80; Groveland, 49; Fanaro, 72; DiPasquale, 144; Mahus, 177; Walker, 99; Knapp, 26; Davis, 29; Schuster, 53; Babbitt Henry, 79; Erdle, 41, Deming, 110; Total 1,183; Absent-Pangrazio, 137; Lost.

A motion made by Mr. Mahus and seconded by Mr. Davis to adjourn the Board meeting was voted nay by Mr. Wadsworth.

### **MOTION**

*Mr. Wadsworth moved and Mr. Falk seconded that the original motion be edited to read for review of a draft resolution to then be voted upon that Livingston County reopens at the earliest chance and we not use any County resources for enforcement and that Livingston County resign from the regional control room.*

The motion was brought back with the additional caveat for those Supervisors that felt uncomfortable voting on a resolution that they haven't seen and his motion allows the Board to reconsider their vote after seeing the draft resolution.

Roll call was done to confirm that all Board members were still on the conference call.

The roll was called again showing all members present except Mr. Pangrazio, (Caledonia).

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The roll was called as follows: Ayes-Wester, 80; Wadsworth, 308; Falk, 139; Gott, 242; Total 769; Noes-LeFeber, 224; Groveland, 49; Fanaro, 72; DiPasquale, 144; Mahus, 177; Walker, 99; Knapp, 26; Davis, 29; Schuster, 53; Babbitt Henry, 79; Erdle, 41, Deming, 110; Total 1,103; Absent-Pangrazio, 137; Lost.

The comments today about sending a letter with pretty strong wording to the Governor and the control room about reopening Phase 3 and 4 sooner was discussed for a motion today. The County Administrator can draft up a letter for Board review/comment. Chairman LeFeber reported on an email the County Administrator drafted yesterday that was sent by him to the control room, which has been done regularly going to Vinnie Esposito and Bob Duffy lobbying and trying to promote the County.

### **MOTION:**

*Mrs. Babbitt Henry moved and Mr. Gott seconded to have the Chairman and the County Administrator draft a very strongly worded letter to both our Governor and the control room indicating that Livingston County is ready for Phase 3 with restaurants, nail salons, tattoo parlors and for all Phases to open up.*

The roll was called as follows: Ayes-1,823; Absent-Pangrazio, 137; Carman, 49; Total 186; Adopted.

### **ADJOURNMENT**

Motion made by Mr. Davis and seconded by Mr. Mahus to adjourn until Wednesday, June 10, 2020 at 1:30 p.m. Carried.

The Board adjourned at 2:43 p.m.