

February 3, 2009

**Tompkins County Legislature
February 3, 2009**

Adopted 2/17/09

Call to Order

Chair Koplinka-Loehr called the meeting to order at 5:30 p.m.

Pledge of Allegiance to the Flag and Roll Call of Members

Members and guests participated in the Pledge of Allegiance to the Flag.

Present: 15 Legislators:

Presentation of Communications

Following the announcement that communications are on the desks, Mr. Koplinka-Loehr stated he would respond to the one communication from received Legislator Proto under the Chair's report.

Privilege of the Floor by the Public

Bruce Estes, Managing Editor of The Ithaca Journal, spoke of recent editorials. He stated rather than review the points made in the editorials he preferred to recall positive actions taken by the Tompkins County Legislature (Board of Representatives) in 1985, in which an amendment that would prevent closed meetings was requested. Mr. Estes called on Legislators to continue to do positive work and resolve to have all business conducted in open session.

Moment of Silence

Mr. Koplinka-Loehr asked for a moment of silence for former Assemblywoman and County Legislator Constance Cook, and former Dispatcher Dave Bush.

Privilege of the Floor by Legislators

Ms. Robertson, District No. 13 Legislator, addressed the issue of revote for Vice Chair and read the following statement:

“In order to allow a complete revote on the 2009 Chair and Vice Chair of the Tompkins County Legislature, so that we can achieve a clear and definitive outcome and restore the public trust in the process by which we elect our leadership, I hereby submit my resignation as Vice Chair of the Tompkins County Legislature. I encourage my colleagues to accept this resignation, to be immediately effective at the moment of a valid acceptance vote on February 3, 2009.”

Ms. Robertson said she is eager that the Legislature move on with work that needs to be done and her candidacy for either position would be a distraction from the primary issues before the Legislature. She called on Mr. Koplinka-Loehr to resign as well to allow a vote on both positions and said she would not be considered a candidate.

Mr. Koplinka-Loehr said a vote would be required on the resignation, which could occur following privilege of the floor for Legislators. He then indicated he would address her request later in the meeting.

Ms. Herrera, District No. 5 Legislator, read the following statement:

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“Like the staff and public, I was startled and dismayed at what took place at the January 6th meeting of the Tompkins County Legislature. I protested on the record, did not recognize, and do not recognize Martha Robertson as legitimate Vice Chair of this body. Events that have occurred since then have added to the sense of disenfranchisement many of us are experiencing here in Tompkins County. I offer tonight my perspective of how we got here, and how we can move forward.

“I recognize that the actions of my colleagues are motivated by the desire to serve. I believe that what has occurred is due to good intentions that spun out of control giving the appearance of unethical, undemocratic behavior with the effect of disenfranchising the voters.

“Since Martha Robertson, Dooley Kiefer, Jim Dennis, Nathan Shinagawa, and other members of this body saw fit at the previous meeting to attack our elected chair, I decided with some trepidation, to speak truth to power tonight.

“For over two years now, I have repeatedly spoken here about transparency and process. Others preferred “flexibility” and “nimbleness” to transparency and open government, dismissing my concerns. I was not alone in repeatedly, and vehemently decrying the blatant practice of changing the rules in the middle of the process. There’s a reason for having process—it’s for fairness and equity. It was clear to me that these machinations were being undertaken to wrest advantage despite the lack of a legislative majority.

“My father had sage advice on how to deal honorably with being outnumbered or outgunned. “Discretion is the better part of valor”—in essence it’s better to delay action when facing certain defeat in order to prevail at a later, more advantageous time. And so I have held my own counsel, here publicly, when it was clear that my warnings about Legislative process problems were going unheeded. But our problems have multiplied and come to a head in this epic power struggle. Some history, briefly.

“There are numerous recent examples of legislators bringing to this body “deals” and “proposals” that had been worked out in private meetings with the former county administrator, organizations, or department heads. These proposals have been brought forward with the endorsement and assurances of the sponsoring legislator. I objected then to these shortcuts in democratic process, and I object to them now.

“In addition, there has been a growing tendency of certain Legislators to direct and devote staff energy to issues they had not been given Legislative authority to pursue. Some Legislators have undertaken issues and projects without notifying the appointed chair of the committee overseeing the related department. This is not only wasteful of taxpayer dollars and resources, it also disregards our committee structure and Legislative process.

“That pattern of bypassing the Legislative process has only become more pronounced at recent meetings. Legislative process has been flexed, tortured, and bent to meet the needs of legislators determined to win power at any cost. This undermines representative government; the notion of one person, one vote.

“For over two years now, I have not regularly attended meetings of my party’s caucus, and have stated to all that my vote will not be and is not determined by the majority vote of caucus. My vote is my own. There’s a reason for that, which is related to the extortion and bullying that we saw here at the Legislature on January 6.

“I have found that some of my colleagues construe an agreement in principle as a promise. Our Legislature’s now commonplace procedural maneuvering including the last minute additions and deletions of key elements, and subtle yet profound changes on the floor mean that legislation I may have supported in principle ultimately lacks the substance to win my vote. I am learning not to make agreements or promises because of the procedural gyrations that take place on the floor.

“When a small group of legislators calls the Chairman of the Legislature outside the room in the middle of a meeting and dictates to him how to cast his vote, threatening him with removal of office if he does not capitulate to their demands, then later reports on the floor their action as justifiable, we are in danger of losing our morale center and have forgotten how to govern in a democracy.

“Some legislators have felt justified in punishing colleagues who did not comply with the mandate of the caucus majority. Others attempted to pressure colleagues to state a position and make a

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promise of their vote. These elected representatives believe that public scolding and removal from office as punishment is an appropriate result for a legislator who “broke their promise”.

“I submit that a promise made under duress is not binding. I further submit to you all, that it is time to stop making agreements about votes in caucus. This practice has perverted our democratic process and threatens the core of our representative government.

“While I know that caucus serves a worthwhile purpose for us mostly longwinded and egotistical public servants (except for Tyke who is not longwinded), who need to practice our orations and learn how to condense them, I have come to believe that pledging a vote ahead of the floor vote ultimately leads the desperate, righteous, or unscrupulous to manipulate the process, and undermines democracy.

“Let’s do a simple math exercise. I don’t have to be chair of the budget committee to understand how block voting can undermine the democracy of a Legislative body. With 15 members of a Legislative body, let’s say that a majority of them, 11, meet together before meetings to discuss the issues.

“Assume that this group had a majority vote to vote as a block, and insisted that the will of the majority would prevail, or “punishment” would result.

“Assuming compliance with that mandate, any 6 members of this 11 could control the outcome of the 11 votes simply by voting as a block themselves. Furthermore, if this 6-member group had a hard-core group of 4 who also chose to vote as a block, this core group of 4 could control the outcome. For that matter, assuming compliance to majority rules block voting, 3 unyielding individuals could assert, through agreement, intimidation or threats, their will on the 4, the 6, the 11, and the 15 elected representatives.

“What this would mean is that the voters who elected representatives in good faith that their vote counted would be disenfranchised, and our representative government would be undermined.

“That’s why, once I figured out the perversion of power that was evolving for the past two years I would not be bound by a majority vote of my party caucus—it simply flies in the face of democracy and all the values of fairness and equity that I was raised to uphold.

“Fortunately, for Tompkins County government there are at least two other strong-minded, fiscally conscious and independent members of my party caucus who routinely have preserved our County’s representative government from the tyranny of a determined few. Like me, they have declined to defer to the majority, and instead have chosen to vote independently on each issue.

“For the record, this is my opinion, two of my colleagues, Greg Stevenson, and Leslyn McBean-Clairborne, like me, were not present at the sub-group meeting that inappropriately began here on the floor of the Legislature at the January 6th meeting. Interestingly, I was not invited to this unofficial sub-caucus meeting, perhaps because I have been very clear in disapproving of the possible subversions of democratic process that could result from block voting, promises, deals, and agreements.

“My disapproval of using or enforcing the majority rule practice in caucus is well known. Apparently, though, Dooley Kiefer and Martha Robertson, to name two of my colleagues who publicly excoriated the Chairman at last months’ Legislature meeting, think it is appropriate to threaten and intimidate someone to obtain their vote, and to punish an elected representative who does not bend to their will. This belief and the actions that resulted from it were, to say the least, regrettable.

“That Dooley Kiefer is the Legislative representative on the Ethics Committee is ironic, as I would have to bring an ethics charge inquiry to one of the Legislators about whose ethical conduct I have questions.

“Here’s two of the reasons I think we are in this pickle:

“One reason is that my colleague Martha Robertson has again this year demonstrated her ambition to gain an Office of chair or Vice Chair at any cost despite any obstacle. Thank you for stepping down ahead of the meeting with the condition that people resign first.

“Another reason is a reaction to the bi-partisan support for lower tax rates. This is the reason we are in this pickle. This is seen by some as a repudiation of progressive values and a reason to attack Legislative process and leadership.

“For several years now, with the leadership of Mike Koplinka-Loehr, a majority vote of Legislators, both Democrat and Republican, we have kept tax increases low. We have done that not with private meetings or illegal agreements, but with the understanding that staff and department heads would

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do their best to support us in keeping Tompkins County fiscally sound. And it has worked. It has been painful, but it has been effective.

“How shall we move forward from here? I offer now, solutions, and suggestions on how to heal from our troubles and move forward effectively.

“The regrettable and indefensible events of January 6th could be prevented by a return to our stated committee structure and process, transparent and inclusive Legislative procedures, and the understanding that our legally-sanctioned caucuses are for the purposes of discussion, not for voting or decision-making.

“Our party caucuses are not only allowed by law, they do serve a purpose when used correctly. Part of the reason that County Legislative committee meetings and Legislature meetings don’t go on for two or three times as long, is that we get to talk about the issues beforehand. And we do love to talk.

“Before closing I want to state that our legislature is made up of citizens who serve because we care passionately about the issues that are important to Tompkins County. With that in mind, I suggest we move forward from here understanding that we will treat one another with respect, and will work for the good of Tompkins County.

“Later on tonight, I’ll be asking for consideration of a resolution that could help preserve class and economic diversity on the Tompkins County Legislature. In the spirit of reform and cooperation, I hope that each of my colleagues will give thought to voting in support of the resolution.

“Thank you for your time and attention.”

During the reading of Ms. Herrera’s statement Ms. Robertson requested the record reflect there were no conditions placed on her resignation.

During the reading of Ms. Herrera’s statement Mr. Koplinka-Loehr cautioned her to “plase keep your comments general, not person”, but allowed her to continue. Mr. Koplinka-Loehr reviewed the rules of decorum for the Legislative body and noted he would interrupt anyone not following the Rules of the Legislature.

Mr. Stevenson, District No. 8 Legislator, thanked Mr. Koplinka-Loehr for his recognition of former colleagues. He spoke of knowing Dave Bush and the generosity shown by Mr. Bush outside of his County employment, including his effort with the Cops and Kids program.

Mr. Dennis, District No. 15 Legislator, expressed his disagreement regarding Mr. Koplinka-Loehr’s opinion of the statement read by Ms. Herrera. He believes the mention of individuals by name and accusations are not allowed in the Rules of the Legislature.

Mr. Burbank, District No. 12 Legislator, spoke of Constance Cook, whom he knew as a public figure, Assemblywoman, member of the Republic Party, and a neighbor. He spoke of having moved into his neighborhood and how she welcomed his family and became good friends. He appreciated her contributions and the forward-thinking woman she was.

Mr. Proto, District No. 7 Legislator, thanked Mr. Burbank for his comments regarding Ms. Cook, noting she was a woman interested in the community who was very open and willing to speak to anyone. He then spoke of the recent article appearing in *The Ithaca Journal* regarding Iberdrola’s request to the Public Service Commission for an increase in rates. He noted he had expressed concern when Iberdrola purchased New York State Electric and Gas, particularly regarding maintenance and crew cutbacks. He would like to see a review of the self-evaluation on maintenance that had been part of the initial approval process and plans to keep abreast of the situation. Mr. Proto noted the proposed increase would be between a \$200 to \$300 annual increase per customer.

Ms. Mackesey, District No. 1 Legislator, reported that Tompkins Consolidated Area Transit (TCAT) contracted with a consultant to study the infrastructure, busses, and routes to effectively use resources. As a result of the study, route changes have been recommended and TCAT plans on holding a

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series of public meetings in February to receive input. The schedule of the public meetings may be found at www.tcatbus.com site. In addition to some proposed route revisions the proposed fees will also be provided.

Mrs. McBean-Clairborne, District No. 2 Legislator, shared what she referred to as “an incredible two weeks”, beginning with the joint re-naming of State Street to include Martin Luther King, Jr. Street. She also spoke of a new project being developed, a freedom walkway, and asked for input to assist in recognizing other notable individuals in the community.

Mrs. McBean-Clairborne then shared her personal experience attending the Presidential Inauguration, saying she felt inspired, validated, and hopeful. She spoke of hoping to bring back comradeship and hope with her, transferring energy to all instead of hardship. Mrs. McBean-Clairborne said experiencing history, particularly black history, is a feeling she could not describe. At the ceremony individuals were hugging, jumping up and down, and braving weather. She spoke of the amazing break in the weather that happened when President Obama stood to take the oath, and how the cloud covered the sun as he left the area. She expressed appreciation to Congressman Hinchey for opening his offices to constituents to discuss areas of concern and share the excitement.

Mrs. McBean-Clairborne reported the 60th Anniversary of the Youth Bureau was a wonderful event highlighted by Corey Booker, the youngest person of color in the position of Mayor of Newark, NJ, who provided an inspiring program, during which he spoke of his excitement to be in Tompkins County, Ithaca, and on Martin Luther King, Jr. Street. She then reported the US Airway magazine, available on all US Airway flights, has highlighted economic development in the Ithaca area. Although she was pleased with the overall articles, she was disappointed with the layout not accurately representing the area’s diversity.

Ms. Chock, District No. 3 Legislator, spoke of sharing a sense of hope at the national level. She also enjoyed the Booker lecture and wanted to point out the strong support in Newark for the arts; Mr. Booker has been credited with the revitalization of the arts and arts center in Newark. On the issue of caucus, she stated it has been a valuable tool that has assisted in selecting Obama as a Presidential candidate as well as having assisted in the positive areas of civil rights and women’s rights by coming through local, state, and national caucus process. Ms. Chock appreciated Mr. Estes’ comments and would hope that the newspaper would play a role to present a history of the many sides of the issue of caucus. Ms. Chock then spoke of how upsetting it is to have a crisis in leadership at the County level; one way to get through the problem was to have everyone in a leadership position resign and start over. She believes it would be the best way to resolve the issue and called upon the Legislature to do so.

Mr. Burbank spoke of having attended the 60th Anniversary of Youth Services and agreed the speaker, Mayor Booker was an inspiration. The presentation was recorded and may be forthcoming on public access. If anyone is interested in learning more about Mr. Booker, there is a documentary entitled “Street Fights”. Mr. Burbank would also like to bring spirit to the Legislative body and said the best way to do so is for Mr. Koplinka-Loehr to resign, providing a totally open process of choosing a leader. He hopes once leadership is determined the Legislature can come together and start working on the real issues facing us.

Mr. Proto referred to Ms. Mackesey’s announcement regarding the TCAT public meetings and emphasized the route changes recommended by the consultant are being reviewed and are not finalized. The Board of Directors would meet next week to review the proposed changes. The public meetings, some scheduled at various times of the day, provide an opportunity to weigh in if riders wish to speak. He noted TCAT is particularly interested in the rural riders.

Ms. Kiefer, District No. 10 Legislator, said it has been a long time since nuclear waste disposal has been on the agenda, and though Tompkins County was never targeted, storage of low-level nuclear

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waste was proposed in neighboring counties. Since 1984, the Nuclear Regulatory Commission (NRC) has allowed more high-level waste to be created, because they are confident a solution, in the form of at least one mined geological repository, would be found by 2007-2009. She noted it is now 2009 and there is not a repository, and the NRC has to revisit the 1984 decision. THE NRC has now issued an advisory that they are certain they would find a reasonable mined geological repository after fifty to sixty years within the life of operating plants. She is not assured or comfortable by this new NRC "findings" and will be sending comments by the February 6, which is end of the comment period. For those desiring to comment, e-mail may be sent to rulemaking.comments@nrc.gov.

Ms. Kiefer said if *The Ithaca Journal* were to publish articles that look at the history of caucuses, both pro and con, as Ms. Chock suggested, that would confine, instead of fanning the flames of controversy as has been done in recent editorials. She spoke of her membership with the League of Women voters for over fifty years, and their strong belief in open meetings. When she first attended caucuses she was uncomfortable, having the League's mind-set regarding caucus, however, experience has shown her caucus is a valuable tool that allows individuals to speak their minds and argue party priorities. She referenced Ms. Herrera's statement indicating caucus does save time during regular meetings and agreed with that. She stressed it is not making final decisions within a caucus but discussions of policy that is appropriate. Ms. Kiefer said annually choosing a leader is an appropriate item for discussion within caucus at any level, as was done during the recent Presidential election.

Ms. Kiefer said she believes the cleanest, simplest, and most transparent manner to resolve the present leadership issue and to have a revote would be to accept resignations from both Mr. Koplinka-Loehr and Ms. Robertson. She said her vote in support of Mr. Koplinka-Loehr as Chair was conditional upon his support for Ms. Robertson as Vice Chair. Ms. Kiefer said that was the team leadership she supported and her support of Mr. Koplinka-Loehr as Chair ended when he broke his promise to support Ms. Robertson as Vice Char, and in effect disenfranchised her.

Mr. Shinagawa, District No. 4 Legislator, spoke of caucus as a good way to sound things out and referred to several resolutions coming through this process. He reported on his attendance at the Chamber of Commerce meeting following the Youth Bureau event, during which the underlying theme was the need for diversity and inclusion. At that time there were comments regarding the positive public service announcements regarding class, race, and equity issues. He shared a profound statement made by Corey Booker regarding a tour of a neighborhood, "If only seeing what's wrong you only see problems; you need to see what's right." Mr. Shinagawa then spoke of the election for Chair and Vice Chair of the Legislature and supports any position or action that would allow a fresh, clean start to have definitive answers on the leadership.

Mrs. McBean-Clairborne spoke of caucus, saying she wished the discussions occurring there would lessen discussions on the floor, however, they do not. She said most of her colleagues do speak on the floor, with a good deal of the decision-making occurring in the Legislative Chambers.

Mr. Burbank requested Mr. Koplinka-Loehr voluntarily resign as Ms. Robertson had, providing the opportunity to have a new vote. He spoke of the two member-filed resolutions before the Legislature to provide this through parliamentary means and appealed to Mr. Koplinka-Loehr to submit to the will of the body and resign. Mr. Koplinka-Loehr indicated he would respond to the comments under the Chair's Report.

Mr. Hattery said, for the record, that because several Legislators determined to speak and make the request for Mr. Koplinka-Loehr's resignation it is not the will of the body.

At this time Mr. Koplinka-Loehr stated the discussions are a gift, indicating grace and courage with hard things shared with civility, decorum, and diplomacy, a testimony that when things are shaken,

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as it was by his error, we go back to the fundamentals. At this time, he indicated he would like to reorder the agenda and allow motions regarding Ms. Robertson's letter of resignation.

Acceptance of Resignation

It was MOVED by Mr. Shinagawa, seconded by Ms. Mackesey, to accept the resignation of Martha Robertson as Vice Chair of the Legislature.

Ms. Robertson requested that upon completion of this business the agenda be amended to move the member-filed resolutions forward.

Ms. Herrera said as in her statement, she does not recognize Ms. Robertson as the duly elected Vice Chair of the Legislature and believes it was improper; therefore, she cannot accept the resignation.

Ms. Kiefer spoke to the substance of whether Ms. Robertson was Vice Chair, taking issue with Ms. Herrera's characterization of the matter. She reaffirmed her previous comments that Ms. Robertson was announced as Vice Chair. In addition, she stated going through the votes on January 6th it was initially a vote of 8 in favor, 7 opposed for Ms. Robertson; when voting for Mrs. McBean-Clairborne the vote was 8 in favor, 7 against. -Ms. Kiefer believes the last vote, which indicated Ms. Robertson was Vice Chair, was the correct vote; she is not comfortable accepting Ms. Robertson's resignation without Mr. Koplinka-Loehr also resigning as Chair.

Mr. Koplinka-Loehr indicated if the matter is in dispute, the resignation tendered is one manner to clarify the dispute.

Mr. Sigler asked for a ruling from the Chair regarding Vice Chair, noting his personal belief that Mrs. McBean-Clairborne holds the position. He stated that legal advice was sought regarding the matter with no response at this time. Although he does not recognize Ms. Robertson as Vice Chair, he would accept a resignation to move forward.

Mr. Burbank feels there was an accurate vote and believes Ms. Robertson to be Vice Chair. He spoke of the situation and comments resulting due to the conflict regarding the position. It takes a great deal of courage to step up and take a leadership role, knowing it would mean criticism from time to time. Mr. Burbank thought Ms. Robertson could do the job of Vice Chair and like Ms. Kiefer thought they were voting for a leadership team. He hoped that it could be done beyond a procedural move to get to a new vote.

Mr. Proto inquired what other opportunities or actions would be available to resolve the issue. Mr. Koplinka-Loehr said there are many options as previously noted by Mr. Wood on January 15th, however, the motion on accepting resignation is on the floor for discussion.

Mr. Proto asked Mr. Wood whether accepting a resignation implies recognizing Ms. Robertson as the Vice Chair, and is it possible to abstain from the vote. Mr. Wood said he did not believe a Legislator could abstain. Although he understands that individuals have different opinions, accepting the resignation and re-voting would resolve the matter.

Mr. Koplinka-Loehr reiterated that regardless of what side of the dispute, Ms. Robertson's resignation is one manner to resolve the issue.

Ms. Robertson appreciated Ms. Kiefer's comments that it is unfortunate that there were not dual resignations. She recalled a civil rights movement slogan that said "if you want peace, work for justice". Although there is an abundance of hurt feelings she believes resignations of both positions is the fairest and easiest way to have resolution. Although Ms. Robertson does not desire to run, it would not keep Mr.

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Koplinka-Loehr from doing so. She spoke of the various comments on the January 21st WHCU podcast, during which Mr. Koplinka-Loehr spoke of stepping aside as Chair, as well as stating so on January 20th in the Legislature meeting. She called upon Mr. Koplinka-Loehr to do as he had spoken of in several earlier discussions and communications, namely each would resign and a new election be held.

Mr. Sigler does not understand the need for the Legislature to formally accept the resignation. He agrees with Mr. Estes and believes caucus should be done away with and has a resolution to that effect he would present at a later date. He said his constituents are not being upset by caucus itself, but the implied “deal”. Mr. Sigler said there is no indication of a leadership “team” in the County Charter and if it is the desire of the Legislature to make it so it requires legislation; the sense this decision came through the Democratic caucus is what has individuals upset. Mr. Sigler said he believes Mr. Koplinka-Loehr has done everything required of him; he made a public error and has publicly apologized.

Ms. Kiefer spoke of the ongoing discussions and asked if Mr. Koplinka-Loehr would comment on who he believes to be Vice Chair.

Mr. Dennis said Mr. Sigler made a case for the revote and believes a revote of both Chair and Vice Chair positions is in order to clearly eliminate any sense of a “deal”.

Ms. Robertson asked Mr. Koplinka-Loehr what has changed since their conversations took place when he agreed with the decision by both to resign in an effort to resolve the issue. Mr. Koplinka-Loehr said it is his duty to serve all citizens for the public good after great thought and consideration he has concluded that the option of submitting his resignation is not in the best interest of this County at this time.

A roll call vote on the motion to accept the resignation of Martha Robertson as Vice Chair of the Legislature for 2009 resulted as follows: Ayes – 11 (Legislators Burbank, Chock, Dennis, Hattery, Koplinka-Loehr, Mackesey, McBean-Clairborne, Robertson, Shinagawa, Sigler, and Stevenson); Noes – 3 (Legislators Kiefer, Proto, and Randall); Temporarily out of the Room – 1 (Legislator Herrera). RESIGNATION ACCEPTED.

It was MOVED by Ms. Kiefer, seconded by Ms. Mackesey to change the order of the agenda and allow Ms. Kiefer’s member-filed resolution to be considered. Mr. Koplinka-Loehr ruled it was the will of the body and amended the agenda to act on the following resolution:

RESOLUTION NO. 15 – RESCISSION OF ELECTION OF CHAIR OF THE LEGISLATURE - 2009

MOVED by Ms. Kiefer, seconded by Mr. Burbank. Ms. Kiefer read the resolution, followed by Mr. Koplinka-Loehr specifying a reason to rescind an election is neglect of duty and mismanagement and he asked individuals to focus their discussion on those reasons.

Ms. Herrera said she would not support the resolution.

Mr. Sigler also said he will not support the resolution, stating to rescind an election should be for nefarious activity. He believes an error was made and does not believe it is appropriate to remove someone for that reason.

Ms. Robertson referenced the section in Robert’s Rules on rescission and believes a lack of confidence is enough reason to rescind the vote. Mr. Koplinka-Loehr read the passage referenced by Ms. Robertson.

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Mr. Burbank believes actions have not been nefarious, and need not have been but that taking action on the resolution is not the best manner to proceed. He would like to see Mr. Koplinka-Loehr resign to provide a new election.

Ms. Chock believes it is permissible to use the resolution to provide the ability to revote and considers the Chair's not getting past the problems of the position of Vice Chair within the last month is neglect on duty. Without casting aspersions of his character, she will support the resolution if Mr. Koplinka-Loehr is unwilling to resign.

Mr. Dennis asked if the resolution submitted by Ms. Robertson entitled "Calling for a Revote for Legislature Chair and Vice Chair – 2009" requires suspension of the rules or a majority of those present to pass; Mr. Koplinka-Loehr indicated it is a majority vote.

Mr. Koplinka-Loehr said he does not agree that his behavior since January 6th constitutes cause under misconduct, neglect of duty, or under any phrase in research. Within twenty-four hours of the January 6th meeting, following a review of the meeting tapes and discussions with the County Attorney, it was his assessment there was an improper action. A poll of legislators followed to determine when a special meeting could be held. A meeting was called and Mr. Shinagawa requested action not be taken at that meeting as he would not be present. Therefore, various options were presented. Many discussions followed on how to proceed. Mr. Koplinka-Loehr said that if process made him guilty of misconduct, he stood guilty as charged. However, he believes anyone could make the same mistake; this method could replace them at anytime. He hopes the Legislature does not support the resolution for that reason.

Mr. Shinagawa asked if the resolution prevents the present Chair from running again and was informed it does not. Secondly, he asked what other options were available that would allow for a revote. Mr. Koplinka-Loehr said a suspension of the rules could be done which requires a two-thirds vote. Mr. Koplinka-Loehr noted the requirement of a two-thirds vote provides an outcome that is certain of the body's decision to depose from office an individual for cause.

Mr. Burbank felt it would be appropriate for Mr. Koplinka-Loehr to run again if the resolution passed; stressing the adoption of the resolution would allow all Legislators an opportunity to revote for the position of Chair.

Ms. Kiefer said she brought the resolution forward as she did not see another way to revote on the Chair's position. She spoke of the statement she read on January 20th that indicated her loss of confidence was more than the question of the vote for Vice Chair, but a series of things occurring in 2008. Ms. Kiefer stated if the Legislature would agree to go into executive session, she would be willing share her concerns. She said her resolution was not brought forward solely on Mr. Koplinka-Loehr's vote at the January 6 meeting.

Ms. Robertson said she recognized Legislators may be uncomfortable voting on a resolution such as the one before the Legislature, which is why she filed her resolution for consideration.

It was MOVED by Ms. Robertson, seconded by Mr. Burbank, to table the resolution until Ms. Robertson's member-filed resolution entitled "Calling for a Revote for Legislature Chair and Vice Chair - 2009" was considered.

Ms. Herrera said she would not support the motion.

Mr. Koplinka-Loehr said he does not support the motion to table as he does not believe Ms. Robertson's resolution has the threshold of ability to act, rather only to rule to revisit an election, since it will require Suspension of the Rules.

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Mr. Burbank asked for Mr. Wood's opinion regarding Ms. Robertson's resolution relating to Suspension of the Rules. Mr. Wood agreed with Mr. Koplinka-Loehr, saying a resolution could then be reconsidered or rescinded but would require a two-thirds vote of the Legislature to support.

Ms. Robertson noted what she is understanding from the ruling Mr. Wood provided is that ten votes would be required for her resolution to pass.

A voice vote on the motion to table Ms. Kiefer's resolution until taking action on Ms. Robertson's member-filed resolution resulted as follows: Ayes – 3 (Legislators Kiefer, Robertson, and Shinagawa); Noes – 12. MOTION TO TABLE FAILED.

With regard to the original motion, if adopted, Mr. Koplinka-Loehr said he would be hesitant to consider running as Chair again as he does not believe a resolution such as this is in the best interest of the public due to the ability to easily dispose the leadership of the Legislature.

Mr. Shinagawa expressed his opinion that he wants to revote on the Chair's position and believes a resignation from Mr. Koplinka-Loehr would be the best option and would show a lot of leadership.

Mr. Hattery reminded the Legislature that it was clearly an 11-4 vote for Mr. Koplinka-Loehr as Chair with no dispute on record. The only reason this resolution is being presented is that a select group of the Democratic caucus determined not to abide by the legitimate vote of the Legislature. He said that since this group did not have the vote turn out as desired they are using any machination to get the result they want.

Ms. Kiefer was surprised at Mr. Koplinka-Loehr's viewpoint of the rescission resolution, noting a great deal of thought went into the decision to bring it forward. She does not believe a group of officials would repeatedly use this mechanism to depose leaders and if there were a way other than the rescission resolution to provide for a revote she would do so. She then spoke of Mr. Hattery not understanding how this situation is the result of breaking a promise made, acknowledging he was not a part of the discussions; without that promise the 11-4 vote would never have occurred and it should be able to be amended.

Mr. Koplinka-Loehr reiterated his opinion that the threshold of what is being considered for deposing a leader of this body has not been met. His actions for the last twelve years in the Legislature and the period of time he was Chair, including January 6th, do not rise to that level. He does not believe there is a valid reason to request a Chair to step aside from the position for the reasons stated. Mr. Koplinka-Loehr spoke of Ms. Kiefer bringing up an interpretation of people breaking word as one of several factors leading to the conclusion of misconduct or neglect of duty, and saying not the only factor. He said on January 6th and 15th he had broken a rule and stated how it occurred. On January 6 he received no less than seven phone calls from some Legislators, and one from a non-Legislator providing information on all three Vice Chair candidates; however, none of the information indicated was upheld at the time of the vote and he therefore made a mistake. He is willing to take the consequence of the vote tonight that he did make a mistake, and that he did not break his word.

Ms. Herrera noted that Mr. Koplinka-Loehr's statement shows why it is not good to make a commitment prior to the Legislature meeting, things change. She expressed sympathy for Mr. Koplinka-Loehr, indicating he is not the only person who has made a mistake, others have as well. She believes the biggest failing is trying to pressure an individual for a vote. Ms. Herrera said she represents all of her constituents and believes it is not the Democratic caucus determining not to abide by a valid vote but some Legislators. She is not a member of that particular group.

At this time Mr. Wood referenced the rule stating: "In the case of a vacancy in the office of the Chair of the Legislature, the Clerk of the Legislature shall call a meeting of the members of the

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Legislature upon like notice as provided above [48 hours], at which a successor shall be elected Chair who shall be a member of the Legislature.” Mr. Wood stated that as the resolution calls for an immediate vote it would require a 2/3 vote to provide for the suspension of the rules. In response to Ms. Robertson’s question regarding an amendment to the resolution to provide for the 48-hour notice instead of an immediate vote, Mr. Wood said that could be done.

Ms. Robertson noted Mr. Koplinka-Loehr has strong support and she believes the honorable thing is to resign and be voted in if Legislators desire.

Mr. Shinagawa felt the January 6th vote was the result of a compromise, which was not followed through on. He would like to have a revote so that he feels his vote counted. He is supportive of the resolution as he would like a new election; he has a growing lack of confidence in the current leadership.

Mr. Sigler spoke of the referenced compromise, asking what the compromise was as not everyone was involved. He will not support a revote as it was (1) a legal election, and (2) he is concerned there is a deal going on now, clearly people want a revote, and if Mr. Koplinka-Loehr and Ms. Robertson are not running there is someone else in mind.

Mr. Proto agreed with Mr. Shinagawa’s statement and stated others not involved with the discussions would like to understand what had occurred.

Ms. Robertson said Ms. Kiefer’s statement of January 20th provided the information and said she is willing to discuss the matter with anyone. Ms. Robertson said she ran for the Chair position, which was closely divided. The idea of a leadership team was not a power-sharing agreement, rather as Vice Chair she would be consulted and she was looking forward to contributing. She was asked to become Vice Chair; she did not seek the position.

Mr. Koplinka-Loehr spoke of how public errors provide the opportunity to return to fundamentals. He spoke of the Chief Justice having made an error on January 20th, but was not deposed. In addition, eight years ago there was a contested election. He does not believe the resolution is appropriate but will follow it if successful.

Mr. Wood said in the event Ms. Robertson’s resolution passes, there would not be a Chair or Vice Chair of the Legislature. He said it might make sense to table the resolution and choose a Vice Chair.

Ms. Kiefer said she believed there are other options; for example, each year a choice of Chair and Vice Chair is made, with another resolution indicating order of succession. Mr. Wood noted there is not a resolution of succession completed for 2009; it could raise a question of whether it is legitimate to follow the 2008 order.

Mr. Proto referenced the procedure of the Clerk of the Legislature stepping in and conducting the meeting.

Mr. Koplinka-Loehr expressed agreement with Mr. Wood with regard to laying the resolution on the table.

Ms. Mackesey inquired if a temporary Chair could be elected. Mr. Wood stated there is a procedure to elect a Chair Pro-tem.

It was MOVED by Mr. Proto, seconded by Mr. Stevenson, to table the Resolution until the completion of the regularly conducted business, including resolutions and reports. Ms. Kiefer was willing to do so with the exception of the County Administrator and Finance Director Reports. Ms. Robertson

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does not support tabling, noting she believed individuals in the audience were present for the discussion of the resolution.

A voice vote on the motion to table the resolution until the completion of regular business resulted as follows: Ayes – 6 (Legislators Hattery, Herrera, Kiefer, Koplinka-Loehr, Proto, and Stevenson); Noes – 9 (Legislators Burbank, Chock, Dennis, Mackesey, McBean-Clairborne, Randall, Robertson, Shinagawa, and Sigler). MOTION TO TABLE FAILED.

Ms. Herrera reminded individuals the decisions regarding the selection of Chair and Vice Chair is not the majority of Democrats, rather, it is the majority of the Legislature who makes the decision. She does not support the resolution.

Ms. Robertson suggested a recess take place to allow the Clerk of the Legislature and County Attorney to review the rules.

Mr. Wood read the following from the Rules of the Legislature: “In the absence of the Chair and Vice Chair, the Clerk, within fifteen (15) minutes of the appointed hour shall call the Legislature to order and a Chair, pro tem, shall be elected from the members present to preside for such day only during the absence of the Chair and the Vice Chair.” He said this is the rule he desired to review and has determined it is not intended for a situation such as the one before the Legislature.

A roll call vote on the resolution resulted as follows: Ayes – 7 (Legislators Burbank, Chock, Dennis, Kiefer, Mackesey, Robertson, and Shinagawa); Noes – 8 (Legislators Hattery, Herrera, Koplinka-Loehr, McBean-Clairborne, Proto, Randall, Sigler, and Stevenson). RESOLUTION LOST.

WHEREAS it is in the best interests of the Tompkins County Legislature and the governance of the county for legislators to have confidence in and trust of their elected legislative chair, now therefore be it

RESOLVED, That, for reasons of mismanagement and other faults, the January 6, 2009, election of Chair of the Legislature be and hereby is rescinded,

RESOLVED further, That a new election for Chair be held at the regularly scheduled legislative meeting on February 3, 2009, by reopening nominations and following standard procedures.

SEQR ACTION: TYPE II-20

Election of a Vice Chair of the Legislature

Mr. Koplinka-Loehr opened nominations for Vice Chair of the Legislature. Mr. Shinagawa nominated Mrs. McBean-Clairborne as Vice Chair, seconded by Mr. Burbank.

Hearing no more nominations, it was MOVED by Mr. Proto, seconded by Ms. Herrera, and unanimously adopted by vote by show of hands, to close nominations.

Mr. Koplinka-Loehr stated for the record that it was not unknown that Mrs. McBean-Clairborne could be Chair of the Legislature, but due to remuneration it is not possible; if it were different circumstances she would certainly be able to do so. He spoke of his support for her as Vice Chair.

Mr. Burbank shared Mr. Koplinka-Loehr’s opinion and is hopeful the vote would be unanimous.

Mrs. McBean-Clairborne made the following statement:

“I actually do appreciate your nomination and vote, but it is a rough one at this point. I am still on “Cloud 9”! It comes at a point where I feel that we are so awfully divided that it doesn’t feel like a

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comfortable place to be in. I am a pretty strong woman and you all bring me to tears with big words like “machination”, that sound like surgery to me... and that is what it feels like now... like really hard surgery.

“I had an opportunity today to sit with my husband and talk about this whole thing and say, “What do I really want to do?” It feels embarrassing, it feels troubling; we have business to do for this County; we have business to do for the people who elected us to represent them. I want to do that. I, or anyone else on this Legislature can do that whether we are Chair or Vice Chair of the Legislature. It doesn't take one of these positions for us to be able to do that.

“Certainly there is some amount of pride that comes with holding one of the leadership positions of the Legislature. I appreciate the bipartisan support that I have gotten over the years. I appreciated the opposition I have gotten in this room. Nothing, none of it even closely compares in terms of its emotional toll on how I feel right now. I want to serve this body regardless of what the position is; I want to serve the people of Tompkins County and I don't know that given what is going on now how comfortable I feel that I can actually do this and do it well. I appreciate your vote of confidence and I am going to appeal to all of you; I haven't said much to all of you on this Legislature floor since all this started; not a whole lot: (1) because I am part of the middle of it, my name is thrown around out there, and (2) because I couldn't think of anything that I could say that would bring more meaning to the work that we are supposed to do. I couldn't think of anything intelligent to say, “Just let's pull this together”. I am going to take this opportunity to say what I want to say, and I apologize if people don't want to listen to me.

“Any one of us in this Legislature could do any of these jobs. I think it is unfortunate that we have gotten to the point where trust is so eroded, and I am not pointing fingers in any one direction, but just all of us. I hear people talk about we can't trust Mike, I hear people talk about we can't trust you, we can't trust Martha, we can't trust Nathan, we can't trust any number of us. It has been so eroded that it is hurtful; it is very, very hurtful. How are we supposed to as a body make decisions in good faith to represent the needs of this County for the quality of life that they talk about in this magazine and elsewhere that we do when we can't sit around the table and trust each other. How are we supposed to do that? And this is not about separation of a unit of Republicans going to do their thing against Democrats, it's all of us. It is all of us and I feel really strange sitting here and accepting this nomination when I feel this way and I am going to hold that whatever the outcome is tonight that we can move past this. I don't care if we have to get in the boxing gym at GIAC and hash this out, we need to get this out from all of us. I have sat here and listened to folks ask Mike over and over again, Mike Koplinka-Loehr, that he is to move over, to concede, to resign, and this is not now, it is not just today and I want to say if we are going to do that on that end then we can do it on other ends as well. I would like to encourage us to flip this another way and think of what is another way that we can help move us forward. It may not be Mike's resignation, it may not be that, it may be that all of us who have issues may just have to suck it up and get to the point or put it out there with each other in our caucus or wherever, get over it and get on with the business. I wish I could be Chair of the Legislature – wish I had the wherewithal and means to be able to do that. I don't. This is a position that requires a lot of your time, full-time. I work a full time job. That's priority. So my appeal to you and the reason to appeal to you all tonight, my reason to appeal to you tonight as your Vice Chair nominee is for all of us to think of how else can we get past this. We can hold Mike's foot to the fire, if we don't like what is going on if Mike continues on as Chair, if we don't like what is going on, we can hold his foot to the fire, that is what we were elected to do. If you don't like what I am doing you can hold my foot to the fire, if I don't like what Pam is doing, I can hold her foot to the fire. We have that ability, we have that vote to be able to do that. So that's my appeal to you all.

“I am sorry it is not the most profound speech you have heard from me but I am speaking on what comes from my gut right now. I am still on Cloud 9, and I am not yelling. I am still happy and I am still trying to channel good, positive energy that we can get to a point of healing and working together. Because it is not looking good to people sitting out here for two hours plus listening to us go round and round in circles about this.”

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Mr. Shinagawa said he is thankful to be able to nominate Mrs. McBean-Clairborne to the position of Vice Chair, and as she stated it is an important step in healing this organization. He said Mrs. McBean-Clairborne is a mother, community organizer, a leader in the community, as well as a good Legislator.

Ms. Robertson said she would love to get past the issues and honestly believes the best way is to vote on both Chair and Vice Chair.

A voice vote on the nomination of Mrs. McBean-Clairborne for Vice Chair of the Legislature resulted as follows: Ayes – 15; Noes – 0. Mrs. McBean-Clairborne was elected Vice Chair of the Legislature.

Mrs. McBean-Clairborne thanked the members for their votes.

Mr. Koplinka-Loehr stated the Legislature would return to the regular agenda.

Recess

Chair Koplinka-Loehr declared a recess at 8:00 p.m. The meeting reconvened at 8:05 p.m.

Mr. Dennis was excused at this time (8:05 p.m.).

Report from a Municipal Official

No Municipal Official was present.

Chair's Report

Mr. Koplinka-Loehr reported the notice of communication from Mr. Proto received at this meeting would not be acted upon as a result of the actions taken previously. He then asked members to review information regarding Committee assignments and charges to the committees on desks and the Chair's appointments.

Mr. Koplinka-Loehr read the following statement to the Legislature:

Brief Message from the Legislature Chair regarding 2009 Committee Appointments

“To my legislative colleagues, all Tompkins County employees and county residents: given a lengthening horizon of fiscal uncertainty and the mounting realities of human need facing all NY counties, governing in 2009 will undoubtedly be significantly more challenging than 2008, yet, thankfully, serving the public good in all that we do will continue to be our guiding principle.

“Looking back, 2008 was a year of transition for our world, our nation, our state and our county. Our local transitions last year included welcoming a new county administrator, a new legislative chair, a new Director of Probation and a compilation of many dozens of examples of milestone achievements in county government across our community. In an effort to keep this message mercifully brief, I have appended over five-dozen highlights of Departmental successes, which are justifiable “Points of Pride” for citizens of the county who benefit from these enduring assets. We’ll post them on our website for all residents to review, appreciate and celebrate.

“In looking ahead, it is clear that despite 2009 starting with a very public internal challenge, it is our external challenges—based on worsening fiscal realities—that will require all of our collective resources to meet the growing needs of struggling community residents. Fortunately, Tompkins County is poised—as well as any county in New York State—to excel in our operations in meeting these very real

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human needs. Our department heads and managers are innovative, highly competent professionals and truly dedicated team-leaders in developing interdepartmental strategies to increase effective service delivery across all areas of our operations. Additionally, the signature trait of our entire workforce is their high commitment to public service as a calling and a privilege. And every member of this Legislature is deeply passionate about contributing our best to achieve the long-term public good of our constituents countywide. I thank each of you for guiding overall policy and priorities, incorporating the widest perspective we can gather to make the wisest decisions for all.

“Thus, Tompkins County has the talent and skill sets to take advantage of every opportunity embedded in the *present* challenges to more professionally serve our citizens - while investing in effective strategies to better position us to meet the *future* needs of the public as they emerge. We are well prepared for the uncertainty ahead.

“In 2009, Tompkins County will not play the blame game. While it’s true that over 75 percent of all programs run by counties are mandated by higher levels of government (with more being considered, along with the possibility of unconscionable retroactive cuts in reimbursements) we have exceptional local resources to meet every challenge with vision and common purpose. We have been visiting our federal and NYS representatives and we will keep up that educational full court press to our best advantage. But our best resources are local: the 100,000 people of this county who can and are facing this uncertain future together and will thrive because of that common purpose, not waiting for an outside savior.

“To effectively mobilize our legislative and community resources, in your folders you’ll find 2009 committee assignments with an accompanying hand-out that outlines 11 key areas that will require a great deal of our organizational attention in the year ahead. For brevity I will highlight just three: 1. maintaining community-wide economic security for *all*—taxpayers and those who rely on us for services alike; 2. demonstrating public value for every tax dollar through performance management tools, and 3. deepening partnerships with public and private stakeholders to ensure a vital quality of life for decades to come. [For example, the Tompkins County Council of Governments is developing a comprehensive intermunicipal employee health care program that will save local governments over \$5 million – a payback of \$20 for every NY state dollar invested to facilitate that partnership.]

“To optimize our legislative focus I am appointing six 2009 legislative committees and one special committee, for the demands ahead. Nathan Shinagawa has become one of several champions for a *performance management* ethic infusing our continuous learning organization and thus I’ve asked him to chair the newly titled “Government Performance and Workforce Relations Committee” (a combination of the 2008 “Government Operations” and “Human Resources” Committees.) I’ve asked Jim Dennis, in chairing the “Budget, Capital, and Finance Committee,” and Frank Proto in continuing to chair the Health and Human Services Committee, to assist the organization to best position itself for short- and long-term *economic security* for our community residents and organizations. While all committees will assess the *partnership opportunities* at hand that will become essential when facing our growing fiscal threats, the Planning, Development, and Environmental Quality Committee—to be chaired by Pam Mackesey; the Facilities and Infrastructure Committee—to be chaired again by Leslyn McBean-Clairborne; and the Public Safety Committee—to be chaired by Martha Robertson, will be ideally positioned to achieve common community-wide goals with the assistance of local institutional partners and many hundreds of volunteers serving on advisory boards.

“Tompkins County is healthy, financially strong and resilient in our capacity to meet the economic and social environment threatening to overwhelm us. It is the people of this county – our county employees, leaders and legislators, and ultimately, YOU—community residents who are both our board of directors and those whom we serve—who are our strongest source of ingenuity, caring, and mutual support—and who allow us to be able to turn adversity into achievement. With so much important work before us, taking pride in the existing strength of our Tompkins County teamwork will inspire our hearts and minds for the demanding and ultimately satisfying tasks ahead. For we hold to a common purpose: improving our community in the present for the benefit of generations to come.

“Thank you in advance for your service in 2009, on behalf all of the residents of Tompkins County.

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Chair's Appointments

Tompkins County Area Development Board of Directors

Martha Robertson

Chamber of Commerce

Michael Koplinka-Loehr

Frank Proto, Alternate

Extension Service (second seat is optional)

Will Burbank

Carol Chock, Alternate

Local Advisory Board on Assessment Review (County Charter Article 4, Section 4.01)

Caroline/Danby - Frank P. Proto

Newfield/Enfield – Greg Stevenson

Groton – Duane Randall

Dryden – Michael Hattery/Martha Robertson

Ithaca - Dooley Kiefer/Michael Koplinka-Loehr

Lansing - Michael Sigler/Dooley Kiefer

Ulysses – James Dennis

City of Ithaca – Nathan Shinagawa/Kathy Luz Herrera/Carol Chock

Poet Laureate (Res. No. 335 of 2001)

Jay Leeming (effective 2/3/09, Community Arts Partnership made recommendation)

Workforce Diversity and Inclusion Committee (Bylaws Adopted by Res. No. 227 of 2006)

Leslyn McBean-Clairborne, Chair

Ethics Advisory Board (County Code Section 32-5)

Dooley Kiefer, Chair

Chair's Report – continued

Mr. Koplinka-Loehr spoke of the Tompkins County Chamber Economic Summit to be held on February 5th. He expressed appreciation to the Administration and Planning Departments as well as Legislators who were involved in the Tompkins County Council of Governments meeting with Congressman Hinchey as he spoke about first-hand knowledge of the proposed stimulus package. Mr. Koplinka-Loehr announced several members would be attending the New York State Association of County Legislative Conference February 9th and should receive additional information that would be helpful over the next year.

Mr. Proto inquired about succession during the period of attendance at the conference; Mrs. McBean-Clairborne would be available should the need arise. The Government Performance and Workforce Relations Committee would be reviewing the succession resolution in the near future.

Report from the County Administrator

Mr. Mareane reported Ms. Younger provided a training session on January 29th regarding Performance Evaluation Process for Direct-Report employees to members of the Legislature. It was a good session and additional dates would be set for those members unable to attend the session.

The Shared Municipal Services Initiative Grant Health Benefits Consortium is moving along well. A governance agreement to guide the initiative is in the final draft form to take to the State Insurance Department to determine consistency with State Insurance Law. The consultants will be brought to the appropriate committees to brief members of the plan and perhaps have an abbreviated presentation at the Legislature.

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Mr. Mareane reported on Tompkins County Area Development's concern regarding the loss of ability to provide civic facilities financing, which was taken over by the New York State Dormitory Authority due to a lapse in the law allowing local Industrial Development Agencies (IDA) to do so. Tompkins County Area Development has experienced a significant loss of fee income to provide continuing economic development initiatives. Over the past several weeks discussions have taken place with Ms. Robertson, Ms. McPheeters of the Tompkins County Chamber, and Mr. Stamm of the Tompkins County Area Development, to attempt to have legislation passed in Albany to reauthorize civic facility financing through the local IDA. A plan is in place to generate lobby interest, with the hope to get this issue recognized at the State level. Ms. Kiefer asked that all members be kept informed. Ms. McPheeters will be working with other Chambers on the matter and he would be working with New York State Association of Counties, and Mr. Stamm would be working with State organizations.

With regard to the Federal Stimulus Plan, a draft copy of projects thought to be eligible was provided to members. The bill has passed the house and it is believed it would be reconciled within the next several weeks. Once approved at the Federal level the funds would come down through the State to the municipalities. He stressed the importance of wanting to submit requests as soon as possible. Some funding would come through in a formula, with other funding being a competitive process. He stated the decision on projects is laid out in the most relevant categories: transportation improvements, energy efficiency, renewable energy, broadband, green buses, etc., and are set up as projects ready in either 90 days, 180 days, or two years, which coincide with the State timeline. Any comments regarding the proposals should be sent to Administration as soon as possible. The Tompkins County Council of Governments (TCCOG) has spoken of presenting a unified proposal relating to stimulus.

Ms. Robertson thanked Mr. Mareane, Mr. Marx, and Ms. Younger, for the efforts of putting together the information in an expeditious manner. She noted the theme of the US Airway article was one of collaboration and cooperation in our county and the Tompkins County Council of Governments effort was a prime example.

Report from the County Attorney

Mr. Wood did not have a report.

Report from the Finance Director

Mr. Squires announced a significant achievement for the County in relation to the bond market, with the recent bonding issue bringing an interest rate under one percent, which has not been seen in New York for many years. He said initially, due to the unstable market, he had hoped for an interest rate of 1.09 percent; the actual rate of 0.73 percent represents a savings of \$23,000 for the \$6.5 million bonding issuance. Mr. Squires compared our rate to a comparable county, Livingston, who sold one-year bonds and received a 2.2 percent interest rate; had Tompkins County rate been the same it would be an additional \$70,000 in interest.

Mr. Squires indicated the market is still unstable, and it is unknown how the stimulus fund would work, there are some large investments that we could make, however, not on our own. It is hopeful that stimulus funding would be up front.

Mr. Sigler asked if stimulus funding were received whether it could be used for something already completed and finance new projects at the low rate. Mr. Squires indicated it could not. Mr. Sigler congratulated Mr. Squires for having such a good interest rate.

Addition of Resolution(s) to the Agenda

There were no resolution(s) added to the agenda.

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Withdrawal of Resolution(s) from the Agenda

There were no resolution(s) to be withdrawn from the agenda.

Approval of Appointment(s) Under the Consent Agenda

It was MOVED by Mr. Proto, seconded by Ms. Mackesey, and unanimously adopted by voice vote, to approve the following appointment(s) under the Consent Agenda:

Youth Services Board

Debra Austic – Village of Trumansburg representative; term expires December 31, 2011

Approval of Resolution(s) Under the Consent Agenda

It was MOVED by Mr. Proto, seconded by Ms. Mackesey, and unanimously adopted by voice vote by members present, to approve the following resolution(s) under the Consent Agenda:

RESOLUTION NO. 16 - AUTHORIZING FIVE-YEAR LEASE AGREEMENTS WITH THE AVIS/BUDGET GROUP AND BARRETT TRANSPORTATION SERVICES INC., D/B/A HERTZ RENTAL CARS – ITHACA TOMPKINS REGIONAL AIRPORT

It was MOVED by Mr. Proto, seconded by Ms. Mackesey, and unanimously adopted by voice vote by members present under the Consent Agenda.

WHEREAS, a Request for Proposals (RFP) was issued by the County Finance Department and was duly advertised on the Central New York purchasing website and was also sent to all major rental car companies, and

WHEREAS, the AVIS/BUDGET GROUP and HERTZ indicated their interest in continuing to be tenants of the airport to provide a car rental service, and

WHEREAS, no other rental car agencies expressed any interest in serving the airport at this time, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the County Administrator be and hereby is authorized to sign agreements with the AVIS/BUDGET GROUP and BARRETT TRANSPORTATION SERVICES, INC., D/B/A HERTZ RENTAL CARS to conduct rental car businesses at the Ithaca Tompkins Regional Airport for the period January 1, 2009, until December 31, 2013.

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Report from the Workforce Diversity and Inclusion Committee

Mrs. McBean-Clairborne, Chair, reported the Committee has not met. The next meeting would take place on February 25th.

Report from the Health and Human Services Committee

Mr. Proto, Chair, reported the Committee has not met. The 2009 Committee is anticipating to keep the same schedule as 2008. He is polling department heads to determine whether a special meeting should occur prior to the next Legislature meeting. Mr. Proto reported there would be a special meeting at 12:30 p.m. on February 9, at the Rice Conference Room to discuss the impact of the Governor's budget on health and human service agencies, particularly the health aspect. In addition, the Homeless and

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Housing Task Force Meeting on February 4th will focus on the "Impact of the Economic Downturn on Low-income Individuals and Families."

Report and Presentation of Resolution(s) from the Facilities and Infrastructure Committee

Mrs. McBean-Clairborne, Chair, reported the Committee met briefly prior to the Legislature meeting. The next meeting will be on February 19th.

RESOLUTION NO. 17 - AUTHORIZING AN INCREASE TO GROUND-TRANSPORTATION FEES – ITHACA TOMPKINS REGIONAL AIRPORT

It was MOVED by Mrs. McBean-Clairborne, seconded by Ms. Chock, and unanimously adopted by voice vote by members present. RESOLUTION ADOPTED.

WHEREAS, Local Law No. 4 of 2002 – Rules and Regulations and Minimum Standards, Ithaca Tompkins Regional Airport – authorizes the Airport manager to assess and collect fees from ground-transportation providers who operate on airport property, and

WHEREAS, Federal case law has overwhelmingly upheld airports’ rights to charge a fee to commercial ground-transportation providers for use and upkeep of airport facilities and the privilege of deriving business from said airport facilities, and

WHEREAS, the airport wishes to increase the fees established by the County Legislature by Resolution No. 41 on March 2, 2004, to allow for five years of inflation, and

WHEREAS, the airport conducted a 5-week survey of ground-transportation usage during November and December 2008 to determine how the established fees should be applied, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure and the Budget and Capital Committees, That the increased Ground-Transportation Fees shown on “Attachment A” be approved for the period from January 1, 2009, until December 31, 2013,

RESOLVED, further, That annual surveys be undertaken to ascertain the appropriate fees to be charged for courtesy vehicles, taxi cabs, and limousine services using airport property.

SEQR ACTION: TYPE II-20

Attachment "A"

Proposed Ground Transportation Fees - Jan. 1, 2009 through Dec. 31, 2013

Ground transportation fees for hotel courtesy vehicles and taxicabs, established by the Facilities and Infrastructure Committee in 2004, have remained unchanged for five years. This proposed fee schedule increases those fees to allow for inflation at the nominal rate of three percent (3%) per year for the past five years and keeps the revised fees static for the next five-year period. The proposed fee schedule is as follows:

Courtesy Vehicles

Estimated Number of Trips to the Airport Annually:	<u>Old Fee</u>	<u>New Fee</u>
0 - 600	\$100	\$115
601 - 1200	\$200	\$230
1201 - 1800	\$300	\$345
1801 - 2400	\$400	\$460
2401 - 3000	\$500	\$575
3001 Plus - Pro rata in increments of \$100 (New \$115) per every additional 600 trips.		

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Taxi Fees

Currently the fee is \$0.11 per enplaned passenger. The increase would bring that fee up to \$ 0.125 per enplaned passenger.

Report from the Human Resources Committee

Mrs. McBean-Clairborne, Vice Chair, said there was no report.

Report and Presentation of Resolution(s) from the Government Operations Committee

Mr. Hattery, Chair, reported the Committee met prior to the last Legislature meeting to act on the resolution presented, which is a continuance of previous resolutions providing pay differentials while in military service.

RESOLUTION NO. 18 - AUTHORIZING TOMPKINS COUNTY TO PAY THE DIFFERENCE IN PAY BETWEEN MILITARY PAY AND BASE COUNTY SALARY TO COUNTY OFFICERS AND EMPLOYEES WHILE PERFORMING ORDERED MILITARY DUTY

MOVED by Mr. Hattery, seconded by Mrs. McBean-Clairborne. Ms. Kiefer stated she requested the previous resolutions be provided, indicating they were a result of individuals called up for active military duty following 9-11. She believes the intent was to cover individuals in hazardous war-zone action. She did not support the resolution for that reason and wanted to state she supports the concept but not an across-the-board pay for any military.

It was MOVED by Ms. Kiefer, seconded by Mr. Burbank, to amend the first “Resolved” to read: “RESOLVED, on recommendation of the Government Operations, and the Budget and Capital Committees, That effective January 1, 2009, through December 31, 2009, the Tompkins County General Fund will pay the difference between base County salary and military pay for up to 90 work days per calendar year, when the employee is called to active military duty **in a conflict zone**. If military pay is equal to or in excess of County base salary, no payment will be made,”

Mr. Hattery said it was discussed in committee and one argument made was that due to the extenuating pressure on military personnel, that although presently it would cover County employees on active duty, he would not want to exclude employees due to the nature of military conflict. Mr. Burbank inquired how many employees are covered and an estimated cost. He was informed that an average of two employees per year at an annual cost of \$13,000. Mrs. McBean-Clairborne appreciated the thought behind Ms. Kiefer’s amendment, but would not support the amendment; regardless of where the active duty is, it is military service. Ms. Mackesey agreed that staff performing required military duty should be covered; it is not a large sum and under the circumstances she would be supportive of the original resolution. Mr. Proto spoke of individuals on active military duty may not be in a conflict zone that could still be hazardous. He would not support the amendment but asked that it be reviewed annually.

A voice vote on the amendment resulted as follows: Ayes - 4 (Legislators Burbank, Kiefer, Koplinka-Loehr, and Randall); Noes – 10; Excused – 1 (Legislator Dennis). AMENDMENT FAILED.

A voice vote on the original resolution resulted as follows: Ayes – 14; Noes – 0; Excused – 1 (Legislator Dennis). RESOLUTION ADOPTED.

WHEREAS, the New York State Military Law provides certain rights to public officers and employees absent on military duty as members of Reserve Forces or Reserve components of the Armed Forces of the United States, and

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WHEREAS, County officers and employees on authorized military leave are entitled to all the rights and privileges set forth in said Military Law, and

WHEREAS, despite the rights and benefits afforded by said Military Law, calls to active duty often impose financial hardship on those summoned and their dependents, and

WHEREAS, by Resolution No. 313 of 2002, Resolution No. 231 of 2004, and Resolution No. 126 of 2007, this Tompkins County Legislature authorized the payment of supplemental benefits to County officers and employees called to serve their country following the September 11, 2001, attacks on the United States through December 31, 2008, and more recent decisions by the Federal Executive, and

WHEREAS, there may be renewed need for activation of military personnel, now therefore be it

RESOLVED, on recommendation of the Government Operations, and the Budget and Capital Committees, That effective January 1, 2009, through December 31, 2009, the Tompkins County General Fund will pay the difference between base County salary and military pay for up to 90 work days per calendar year, when the employee is called to active military duty. If military pay is equal to or in excess of County base salary, no payment will be made,

RESOLVED, further, That the Director of Finance will establish and notify Department Heads and affected employees of the procedures by which the differential shall be paid.

SEQR ACTION: TYPE II-20

Report from the Planning, Development, and Environmental Quality Committee

Ms. Robertson, Chair, did not have a report. She wished Ms. Mackesey well as Chair of the 2009 Committee.

Report from the Budget and Capital Committee

Mr. Shinagawa, Chair, reported the Committee met January 26th, with the presentation regarding room tax postponed until the next meeting. He expressed appreciation for the work done and was pleased with the collaborative process occurring. Mr. Shinagawa is proud to be chosen as Chair for the Government Performance and Workforce Relations Committee.

Report from Public Safety Committee

Mr. Stevenson, Chair, reported the Committee has not met since the last Legislature meeting.

Member-Filed Resolution(s) (continued)

RESOLUTION NO. 19 - SETTING SALARIES OF MEMBERS OF THE TOMPKINS COUNTY LEGISLATURE TO BE ELECTED FOR THE TERM COMMENCING JANUARY 1, 2010

MOVED by Ms. Herrera, seconded by Mrs. McBean-Clairborne. Mr. Hattery questioned why the resolution was brought to the floor as the matter had been under consideration with two different drafts at the committee level. He said although there are differences of opinions regarding the matter it would be better to work through the committee process. Ms. Herrera explained her reason, noting it is appropriate as it had been delayed in committee and she believes the salary should be established long before the election process.

Ms. Mackesey expressed her appreciation that the issue was brought forward. She spoke of her proposal to substitute the resolution and said it is different in that it speaks of the financial difficulties Tompkins County is facing and does not increase salaries for 2010, with the subsequent three years having increases.

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WHEREAS, elections for all 15 members of the Tompkins County Legislature will be held in 2009 for terms commencing on January 1, 2010, and

WHEREAS, it is appropriate that the level of compensation be established well in advance of the election so that prospective candidates and voters will be informed as to the salaries to be paid to Legislators for lost opportunity for employment during time required, and

WHEREAS, a May 1996 self-monitoring survey of Tompkins County Legislators members determined that the average monthly time commitment was 30 hours per week, and another self-monitoring study in 2006 determined that a Legislator's position qualified as being fulltime, and

WHEREAS, New York State now requires a minimum of 30 hours per week to be worked by elected officials in order to qualify for fulltime New York State Retirement credit, and

WHEREAS, it is reasonable (and allows broad representation from citizens from all backgrounds) to allow a person to be able to serve as an elected Tompkins County Legislator and also hold a half-time job, and

WHEREAS, the most recently determined "living wage" (April 23, 2007) for a *single* fulltime wage earner in Tompkins County, as determined by Alternatives Federal Credit Union, is \$20,450, and

WHEREAS, an annual Cost of Living Adjustment (COLA) for County Representatives is a reasonable way to recognize this time commitment, and

WHEREAS, inflation for 2005-2007 averaged 3.5% (small cities index) and the social security COLA for 2009 is 5.8%, and

WHEREAS, the average legislative salaries in 2008 in twelve relevant chartered counties with County Executives (theoretically less demands on legislators than with an appointed County Administrator) was \$25,055 per year, and

WHEREAS, the January 1, 2009, through December 31, 2009, Legislative salary is set at \$18,700, now therefore be it

RESOLVED, That the annual salary for a member of the Tompkins County Legislature elected for the term commencing January 1, 2010, shall be as follows:

January 1, 2010-December 31, 2010:	\$19,450
January 1, 2011-December 31, 2011:	\$20,200
January 1, 2012-December 31, 2012:	\$20,950
January 1, 2013-December 31, 2013:	\$21,700

RESOLVED, further, That the annual salary for the Chair of the Tompkins County Legislature elected for the term commencing January 1, 2010, shall be one and one-half the salary of a Legislator not serving as Chair,

RESOLVED, further, That the fiscal target for the Tompkins County Legislature be adjusted accordingly each year for the salary increases of the Legislature.

SEQR ACTION: TYPE II-20

It was MOVED by Ms. Mackesey, seconded by Ms. Robertson, to substitute the above resolution with the following in an effort to acknowledge the difficult times and take a positive step as a Legislature.

Mr. Proto expressed his appreciation for the work done regarding the resolution, however, from Mr. Squires reports the County is not in the same fiscal situation as other counties. He does not believe the wording reflects the County's fiscal situation accurately. It may be more appropriate to say we are sensitive to our residents having financial difficulties. It is early in the year and the County can only speculate financial situations, coupled with not knowing what the Governor's budget and Federal stimulus package may offer or how funds would be handled. Mr. Proto suggested the matter be postponed until June when it may be better known what the financial situation for the County may be.

Mr. Burbank appreciated the effort and noted the County is bound to set salaries in a particular time frame. He is supportive of no increase in 2010 and agrees with Mr. Proto to delay action and allow the newly formed Government Performance and Workforce Relations Committee review the matter, as well as allowing more time to determine the financial situations.

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Mr. Koplinka-Loehr believes it is timely to act upon the resolution now since individuals may be announcing the intent to run between now and May; he does not believe it is appropriate for potential candidates to vote on their potential salaries. The public would be served better by determining the salaries now. He supports an increase in salaries, stating a need to keep up with inflation.

Mr. Hattery said the proposed resolutions are two different drafts with different logic. It was MOVED by Mr. Hattery, seconded by Mr. Burbank, to send both draft resolutions to the Government Performance and Workforce Relations Committee.

Ms. Herrera is glad to have the discussion and she appreciates the substitute being offered provide different reasoning. She prefers her resolution and would not support the substitution.

Mr. Stevenson said the matter has been to committee several times in 2008; while he doesn't disagree with sending matters to committee he would not support the motion.

Ms. Kiefer said the new Government Performance and Workforce Relations Committee has a different membership and this could be reviewed there. She believes the new committee could produce a resolution to come forward by March or April, providing enough time for local election activity to begin.

Mr. Hattery noted neither resolution would make a substantial difference in the amount of salary for a Legislator.

Ms. Chock asked that the matter come back to the full Legislature within a short period if referred to Committee.

A vote on the motion to send both resolutions back to the Government Performance and Workforce Relations Committee for consideration resulted as follows: Ayes – 7 (Legislators Burbank, Hattery, Kiefer, Koplinka-Loehr, Mackesey, Proto, and Sigler) ; Noes – 7 (Legislators Chock, Herrera, McBean-Clairborne, Randall, Robertson, Shinagawa, and Stevenson); Excused – 1 (Legislator Dennis). MOTION FAILED.

Ms. Herrera encouraged her colleagues to discuss the Legislator salary, noting when the salary is more appropriate as the study referenced in her resolution indicated, with a monthly time commitment of 30 hours per week, qualifying the position as a full-time position, her resolution has a more appropriate wage. The higher amount assists in preventing self-selection of Legislators and also encouraging diversity and inclusion that makes for true representation.

Ms. Mackesey stated she considers Mr. Proto's suggestion earlier in the discussion concerning being sensitive to our residents having financial difficulties as being friendly and agreed to add it to the resolution.

Ms. Kiefer said if the resolutions were sent back to Committee the two proposals could be incorporated into one resolution.

WHEREAS, elections for all 15 members of the Tompkins County Legislature will be held in 2009 for terms commencing on January 1, 2010, and

WHEREAS, it is appropriate that the level of compensation be established well in advance of the election so that prospective candidates and voters will be informed as to the salaries to be paid to Legislators for lost opportunity for employment during time required, and

WHEREAS, a May 1996 self-monitoring survey of Tompkins County Legislators members determined that the average monthly time commitment was 30 hours per week, and

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WHEREAS, since the financial difficulties currently being experienced by many Tompkins County residents requiring sacrifice by us all, the Tompkins County Legislature will receive a 0% increase in 2010, now therefore be it

RESOLVED, That the annual salary for a member of the Tompkins County Legislature elected for the term commencing January 1, 2010, shall be as follows:

January 1, 2010-December 31, 2010:	\$18,700
January 1, 2011-December 31, 2011:	\$19,200
January 1, 2012-December 31, 2012:	\$19,700
January 1, 2013-December 31, 2013:	\$20,200

RESOLVED, further, That the annual salary for the Chair of the Tompkins County Legislature elected for the term commencing January 1, 2010 shall be one and one-half the salary of a Legislator not serving as Chairman,

RESOLVED, further, That the fiscal target for the Tompkins County Legislature be adjusted accordingly each year for the salary increases of the Legislature.

SEQR ACTION: TYPE II-20

It was MOVED by Ms. Kiefer, seconded by Mr. Burbank, to use the first eight Whereas paragraphs from Ms. Herrera's resolution and add the last Whereas paragraph from Ms. Mackesey's resolution offered, amending it to read "WHEREAS, since the financial difficulties currently being experienced by the national and global financial crisis being experienced require sacrifice by us all, the Tompkins County Legislature will receive a 0% increase in 2010, now therefore be it"; followed by the three Resolved paragraphs from Ms. Mackesey's resolution.

It was MOVED by Ms. Chock, seconded by Mr. Hattery, to reconsider sending the matter back to Committee. A voice vote on the motion to reconsider resulted as follows: Ayes – 11; Noes – 3 (Legislators Herrera, Shinagawa, and Sigler). MOTION CARRIED.

A voice vote on the motion to send the resolutions to the Government Performance and Workforce Relations Committee resulted as follows: Ayes – 10; Noes – 4 (Legislators Herrera, McBean-Clairborne, Mackesey, and Shinagawa. MOTION CARRIED.

WHEREAS, elections for all 15 members of the Tompkins County Legislature will be held in 2009 for terms commencing on January 1, 2010, and

WHEREAS, it is appropriate that the level of compensation be established well in advance of the election so that prospective candidates and voters will be informed as to the salaries to be paid to Legislators for lost opportunity for employment during time required, and

WHEREAS, a May 1996 self-monitoring survey of Tompkins County Legislators members determined that the average monthly time commitment was 30 hours per week, and another self-monitoring study in 2006 determined that a Legislator's position qualified as being fulltime, and

WHEREAS, New York State now requires a minimum of 30 hours per week to be worked by elected officials in order to qualify for fulltime New York State Retirement credit, and

WHEREAS, it is reasonable (and allows broad representation from citizens from all backgrounds) to allow a person to be able to serve as an elected Tompkins County Legislator and also hold a half-time job, and

WHEREAS, the most recently determined "living wage" (April 23, 2007) for a *single* fulltime wage earner in Tompkins County, as determined by Alternatives Federal Credit Union, is \$20,450, and

WHEREAS, an annual Cost of Living Adjustment (COLA) for County Representatives is a reasonable way to recognize this time commitment, and

WHEREAS, inflation for 2005-2007 averaged 3.5% (small cities index) and the social security COLA for 2009 is 5.8%, and

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WHEREAS, since the financial difficulties currently being experienced by the national and global financial crisis being experienced require sacrifice by us all, the Tompkins County Legislature will receive a 0% increase in 2010, now therefore be it

RESOLVED, That the annual salary for a member of the Tompkins County Legislature elected for the term commencing January 1, 2010, shall be as follows:

January 1, 2010-December 31, 2010:	\$18,700
January 1, 2011-December 31, 2011:	\$19,200
January 1, 2012-December 31, 2012:	\$19,700
January 1, 2013-December 31, 2013:	\$20,200

RESOLVED, further, That the annual salary for the Chair of the Tompkins County Legislature elected for the term commencing January 1, 2010, shall be one and one-half the salary of a Legislator not serving as Chair,

RESOLVED, further, That the fiscal target for the Tompkins County Legislature be adjusted accordingly each year for the salary increases of the Legislature.

SEQR ACTION: TYPE II-20

RESOLUTION NO. - CALLING FOR A REVOTE FOR LEGISLATURE CHAIR AND VICE CHAIR - 2009

It was MOVED by Ms. Robertson, seconded by Ms. Chock. Ms. Robertson asked for clarification regarding the previous discussion of the resolution and noted Mr. Dennis was excused earlier. Mr. Koplinka-Loehr stated it would require ten votes (2/3 of the Legislature), versus a majority of eight to fulfill the action. Mr. Wood began to clarify the need to wait 48 hours. At this time Ms. Robertson withdrew her motion. RESOLUTION WITHDRAWN.

WHEREAS, it is in the interests of the Tompkins County Legislature, the county government, and the residents of Tompkins County to have legislative leaders chosen by a majority vote uncluttered by confusion and error, now therefore be it

RESOLVED, That the Tompkins County Legislature shall hold new elections at its regular meeting on February 3, 2009, for Chair and then for Vice Chair,

RESOLVED, further, That the officers chosen through those elections shall take office immediately.

SEQR ACTION: TYPE II-20

Approval of Minutes

It was MOVED by Ms. Robertson, seconded by Mr. Burbank, to approve the minutes of January 15 and 20, 2009, as amended. A voice vote resulted as follows: Ayes – 12; Noes – 2 (Legislators Herrera and Proto); Excused – 1 (Legislator Dennis). MINUTES APPROVED.

It was MOVED by Ms. Kiefer, seconded by Ms. Robertson, to lift from the table the minutes of January 6, 2009. A voice vote on the motion to lift from the table resulted as follows: Ayes – 12; Noes – 2 (Legislators Herrera and Proto); Excused – 1 (Legislator Dennis). MINUTES LIFTED FROM THE TABLE.

A voice vote on the minutes of January 6, 2009, as amended, resulted as follows: Ayes – 10; Noes – 4 (Legislators Hattery, Herrera, Koplinka-Loehr, and Proto); Excused – 1 (Legislator Dennis). MINUTES APPROVED.

Adjournment

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On motion, the meeting adjourned at 9:22 p.m.