

Laws and Rules, Governmental Services Committee

Meeting Minutes

DATE & TIME: September 14, 2015 – 6:30 PM
LOCATION: Karen L. Binder Library, 6th Floor, COB, Kingston, NY
PRESIDING OFFICER: Legislator Richard Parete
LEGISLATIVE STAFF: Fawn A. Tantillo, Sr. Legislative Employee
PRESENT: Legislators Kevin Roberts, David Donaldson, Manna Jo Greene, Kenneth Ronk, Jr and Chairman John Parete
ABSENT: None
QUORUM PRESENT: Yes
OTHER ATTENDEES:

Chairman R. Parete called the meeting to order at 6:30 PM.

Motion No. 1: The minutes of September 14, 2015 were approved as distributed.
Motion Made By: Legislator Donaldson
Motion Seconded By: Legislator Ronk
Discussion: None
Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Roberts, Donaldson, Greene, Ronk and Chairman J. Parete
Voting Against: None
No. of Votes in Favor: 6
No. of Votes Against: 1
Disposition: Minutes Approved

Motion No. 2: Resolution No. 357 - Setting A Public Hearing On Amended Proposed Local Law No. 12 of 2015 (A Local Law Of The County Of Ulster For The Regulation Of Pet Sellers) To Be Held On Tuesday, November 10, 2015 At 7:10 PM

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Donaldson

Discussion: Legislator Ronk described the arduous process that had resulted in Proposed Local Law No. 12 and thanked the representatives of the hobby breeders, the ASPCA, the Humane Society as well as several other individuals who took part in the discussions. He said the proposal

was first introduced several months ago and culminated in a meeting last week that took over two hours to hammer out the final details. He appreciated that while everyone did not get everything they wanted, he felt there was a health give and take that resulted in a good law overall.

Chairman R. Parete said he was not supportive of the proposed local law and did not like the enforcement being carried out by a non-governmental contract agency. He felt current state laws were sufficient and no one has shown him that there is a problem in Ulster County.

Legislator Donaldson asked for feedback from breeders who were present. Several breeders outlined the following general concerns:

In the original press release when County Executive Mike Hein first proposed the law it included an exemption for breeders who sell directly to the consumer fewer than 25 animals per year that are born and raised on the breeders residential premises as well as duly incorporated humane societies dedicated to the care of unwanted animals. However, when the first drafts of the proposed local law were released by the Legislature the exemption for residential breeders had been removed.

Breeders concerned about highly contagious diseases like Canine parvovirus expressed fear that they have no means to require proper sanitary practices of the inspectors who could be contaminate coming directly from a kennel or another breeder without changing their clothing and shoes.

Breeders felt the requirement to open their residence to an inspector was a violation of their Fourth Amendment Rights prohibiting unreasonable searches and seizures.

Breeders noted that the state pet dealer law was triggered at 25 animals while this local law was triggered at only 9 animals

Legislator Ronk gave examples of other hobby businesses such as food services and child care that require licenses and inspections. He explained that the need arose because the State Ag and Market inspectors don't have the manpower to inspect smaller breeders and allowed local jurisdictions to establish stricter standards. The choice of 9 animals was a compromise after several other options such as the number of litters, were discussed. He said there is no way to know if we have a problem with disreputable breeders without a local law.

Legislator Donaldson did not believe inspections would be a violation of the Fourth Amendment but thought it might be more practical to adopt the same standard of 25 animals used in the State law.

Legislator Greene asked for specific objections to the proposed local law and how it might be improved.

There was a discussion about several of the issues mentioned above. Representatives of the residential hobby breeders said they were being asked to "trust" that the inspectors contracted to enforce this local law would act in good faith and be fair and noted that dishonest and devious

breeders would find a way around the law. They felt the Legislature should trust them and exempt them from the law.

Counsel Weiner asked if the breeders present would agree that there are some residential breeders that are not responsible. They agreed and outlined the protocol responsible breeders follow. Counsel Wiener then posed the question of how to regulate the irresponsible breeders without including regulations for responsible breeders.

Legislator Ronk said perhaps they could develop some recognition for responsible “gold star” breeders. He emphasized that he did trust the individuals here tonight who have shown their dedication to being responsible breeders but the only way to discover and prevent unscrupulous breeders was to license them all. He said that dishonest and deceitful individuals will always find a way to fit in any exemption or loophole.

Motion Made by: Chairman R. Parete felt that legitimate concerns had been raised and made a motion to take no action on Resolution No. 357.

Motion Seconded by: Legislator Greene

Discussion: Legislator Ronk was disappointed that the committee did not seem to recognize the need for the local law or the various stakeholders who worked in good faith with the hobby breeders to find compromise to their issues and develop a local law that would address a need that even they all acknowledge was a problem.

Roll Call Vote:	No
Voting In Favor:	Legislators R. Parete, Roberts, Donaldson, Greene and Chairman J. Parete
Voting Against:	Ronk
No. of Votes in Favor:	5
No. of Votes Against:	1
Disposition:	No Action Taken

Motion No. 3: Resolution No. 325 - Setting A Public Hearing On Proposed Local Law No. 14 of 2015 (A Local Law Prohibiting The Sale Of Personal Care Products Containing Microbeads In Ulster County) To Be Held On Tuesday, November 10, 2015 At 7:05 PM

Motion Made By: Legislator Donaldson
Motion Seconded By: Legislator Ronk

Discussion: Legislators Greene, Donaldson and Rodriguez gave a brief description of the environmental concerns of microbeads. Microbeads are plastic microspheres that are widely used in cosmetics as exfoliating agents and personal care products such as toothpaste, as well as biomedical

and health science research. They are most frequently made of polyethylene but can be of other petrochemical plastics such as polypropylene and polystyrene.

Microbeads pose an environmental hazard when disposed of in waste water. Because they pass through sewage treatment plants without being filtered out, their disposal has resulted in plastic particle water pollution. Several jurisdictions have regulated the use of microbeads.

Chairman J. Parete asked why the Personal Care industry felt a need to use microbeads, if this local law would ban the sale of over 140 personal care products that contain microbeads and what steps the Food and Drug Administration (FDA) or the Environmental Protection Agency (EPA) were taking to protect the environment. He was concern about how a retail vendor would know a product contained microbeads.

Legislator Greene noted that lists of products that contain microbeads are readily available on line. She acknowledged that 140 personal care products or more would be banned but all of these products had similar products to replace the banned ones. She gave an example of one toothpaste company that sells a variety of toothpaste, some containing microbeads and some that did not and only the ones containing microbeads would be banned. She noted that other exfoliating agents are available that are totally biodegradable such as poppy seeds, carrot powder, various seaweeds and even pulverized nut shells

Chairman R. Parete told the committee that Legislator Peter Loughran, a sponsor of the resolution, reached out to representative of the Personal Care industry and invited them to present their view on microbeads at the public hearing.

Legislator Rodriguez said he and Legislator Loughran met with representatives of some product manufacturers who recognize the problem and plan to phase out microbeads by 2016 but they are concerned that competitors who don't discontinue the use of microbeads would take a market share away from them. Bands on microbeads will level the playing field. Other counties have passed similar legislation and he anticipates that state wide and even national bands on the use of microbeads will be coming in a few years.

Legislator Roberts wondered how a retailer would know a product contained microbeads. He noted that a retailer might not realize he was selling a banned product and felt that a fine of \$2500 for a first offence was excessive.

Motion to amend: Legislator Greene offered to amend SECTION 5. PENALTIES.

(a) Any person who violates any portion of this law shall be liable for a civil penalty not to exceed ~~\$500~~ ~~\$2500~~ for each day during which such violation continues, and in addition thereto, such person may be enjoined from continuing such violation. For a second violation, such person shall be liable for a civil penalty not to exceed ~~\$2500~~ ~~\$5000~~ for each day during which such violation continues and in addition thereto, such person may be enjoined from continuing such violation. **For a third violation, such person shall be liable for a civil penalty not to exceed \$5000 for each day during which such violation continues and in addition thereto, such person may be enjoined from continuing such violation.**

Motion Seconded by: Legislator Donaldson
Discussion: None
Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Roberts, Donaldson, Greene, Ronk and
Chairman J. Parete
Voting Against: None
No. of Votes in Favor: 6
No. of Votes Against: 0
Disposition: Amendment Approved

On the resolution as amended:

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Roberts, Donaldson, Greene, Ronk and
Chairman J. Parete
Voting Against: None
No. of Votes in Favor: 6
No. of Votes Against: 0
Disposition: Passed as amended

Motion No. 4: Resolution No. 362 - Adopting Proposed Local Law No. 9 of 2015 (A Local Law Of The County Of Ulster, New York, Known As The “False Alarm Reduction Act”)

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Donaldson

Discussion: Legislator Roberts did not support added regulations on companies that install and maintain alarm systems.

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Donaldson, Greene, Ronk and Chairman J. Parete
Voting Against: Roberts
No. of Votes in Favor: 5
No. of Votes Against: 1
Disposition: Passed

Motion No. 5: Resolution No. 363 - Adopting Proposed Local Law No. 16 of 2015 (A Local Law Amending Local Law No. 1 Of 1996 (A Local Law To Prohibit Soliciting, Peddling Or Vending On Any County Owned Property), To Allow For Use Of County Owned And Leased Building Space By Veterans And Disabled Members Of Ulster County)

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Donaldson

Discussion: Legislator Donaldson noted some examples of outstanding vendors in other public buildings, recognized the benefits for the veteran or disabled vendors as well as the convenience to employees.

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Roberts, Donaldson, Greene, Ronk and Chairman J. Parete
Voting Against: None
No. of Votes in Favor: 6
No. of Votes Against: 0
Disposition: Passed

Motion No. 6: Resolution No. 364 - Setting A Public Hearing On Proposed Local Law No. 17 of 2015 (A Local Law Amending The Ulster County Charter, (Local Law No. 2 Of 2006), To Modify The Appointment Process Of The Audit Committee And To Clarify The Authority Of Said Committee) To Be Held On Tuesday, November 10, 2015 At 7:15 PM

Motion Made By: Legislator Ronk for discussion
Motion Seconded By: Legislator Greene

Discussion: Legislator Ronk felt the proposed local law encompassed two issues, one that required a referendum and one that did not. He felt the question needed to be split.

The first question concerns hiring the same firm as independent auditors and as budget analyst. Legislator Ronk said this question is a policy one and does not require a public referendum.

The second question concerns closing the loophole that allows the County Executive to veto the audit committee's choice of an independent auditor. Legislator Ronk said this question would require a change to the charter and therefor needed to be put up for a referendum vote. The earliest that could go on the ballot was next year.

Legislator Ronk noted the irony of the County Executive's veto of Resolution No. 262 of 2015 which was designed specifically to eliminate the ability of the County Executive to veto the choice of the Legislature's independent auditor.

Legislator Donaldson agreed that this resolution included two distinctly separate issues. He said he disagreed with the County Executive's veto statement in which he claimed that some kind of conflict was created by having one firm serve as both independent auditor and budget analysis noting that they are not auditing their own work. He said there are actually benefits to having the same firm do both functions and may even be a cost savings. He agreed that decision is a policy one and should not be included in a referendum question.

There was discussion about amending the proposed local law by simply removing the following:

“SECTION 4. A new section (C) is hereby added to Section C-11.1 of the Ulster County Charter to read as follows:

In order to eliminate any conflict, potential conflict or any appearance of impropriety, in no event shall the firm, corporation, entity or individual chosen to serve as the County Legislature's annual budget analyst be chosen, approved or retained as the independent auditor.”

Legislator Ronk noted that such an amendment would require the approval of the sponsors and none of them were present.

Motion to postpone made by: Legislator Ronk

Motion seconded by: Chairman R. Parete

Discussion: Chairman R. Parete remarked that it would be prudent for resolution sponsors to attend the meeting to answer questions or discuss amendments like this.

Roll Call Vote:	No
Voting In Favor:	Legislators R. Parete, Donaldson, Roberts, Ronk and Chairman J. Parete
Voting Against:	Greene
No. of Votes in Favor:	5
No. of Votes Against:	1
Disposition:	Resolution Postponed

Motion No. 7: Resolution No. 386 - Setting A Public Hearing On Proposed Local Law No. 18 of 2015 (A Local Law Amending The Ulster County Charter, (Local Law No. 2 Of 2006), To Modify The Appointment Process Of The Charter Revision Commission) To Be Held On Tuesday, November 10, 2015 At 7:20 PM

Motion Made By: Legislator Ronk for discussion

Motion Seconded By: Legislator Donaldson

Discussion: Legislative Chairman J. Parete, sponsor of the resolution, said there was no rush to approve this resolution but wanted to begin a substantive discussion on some fundamental issues. He noted that if and when this local law is approved it will require a referendum and that cannot happen until next year. He said that in the County Executives three page veto message of Resolution no. 262 of 2015 some interesting questions were raised. He is not sure if they are right or wrong but he believes there needs to be some frank discussion about them.

Chairman J. Parete reminded the committee that during a similar discussion about appointments to the Audit Committee, County Executive Mike Hein made a public statement that the Chairman of the Legislature had three appointments to the five member audit committee and questioned the ability of that committee to then be independent. In the veto of Resolution No. 262 of 2015 Executive Hein he said that Resolution would give the Chairman undue influence and place “power with a small, hand-picked committee... that could have rigged the bid.”

Chairman John Parete was alarmed and took exception to the statement by the County Executive that he or any particular chairman would “rig the bid” but noted that it raised the question about other appointments such as the Charter Revision Commission where the County Executive appoints five of the members and his party leaders in the legislature appoint three more, effectively giving that party 8 of the 11 appointments.

That would mean that the Executive and the leader of the party on the Legislature in the same party as the County Executive will have effectively placed power with a “small hand-picked committee” appointed by two members of the same party giving them the ability to “rig the bid” as well.

Chairman J. Parete said if someone was concerned about giving an unnamed Legislative Chairman “undue influence” and the opportunity to “rig” a committee decision, what prevented a County Executive from having “undue influence” and “rigging the bid” in a committee where he controls the majority of the appointments.

Chairman J. Parete pointed to other statements in the County Executive’s veto message including his assertion that all the members of the Audit Committee should be Legislators. Chairman J. Parete said that some people thing citizen committees and citizen input was a good thing but the questions should be discussed.

Legislator Donaldson noted that the Charter was a Legislative initiative. The roll of the Legislature was designed to be deliberative body and by its nature takes time to make decisions, consider issues and create policy and it is easier to for the County Executive to make a decision. The Charter revision needs to done in a manner that is above question and agrees that the future Charter Revision Committees should be redesigned to address this inequity of appointments that give the County Executive undue influence on the committee.

Legislator Greene clarified for the record that she confused the Section 4 of the previous resolution with Section 4 of this resolution. She did not object to postponing the previous resolution but did not want to change her vote on that.

Motion to postpone made by: Legislator Ronk

Motion seconded by: Legislator Greene

Discussion: There was a discussion about how long to postpone the resolution.

Roll Call Vote: No

Voting In Favor: Legislators R. Parete, Donaldson, Greene, Roberts, Ronk and Chairman J. Parete

Voting Against: None

No. of Votes in Favor: 6

No. of Votes Against: 0

Disposition: Resolution Postponed

New Business: There was a brief discussion about changing the start time of the Laws and Rules Committee meeting and it was agreed that the current start time of 6:30 was working well.

Old Business: None

Motion to adjourn

There being no further business before the Committee, a motion was made by Legislator Ronk, seconded by Legislator Donaldson and carried to adjourn the meeting at 8:14 PM.

Respectfully submitted this 25th day of October, 2015

Fawn A. Tantillo, Senior Legislative Employee

Minutes Approved on November 16, 2015