

**Energy & Environment Committee
Special Meeting Minutes & Transcript**

DATE & TIME: April 15, 2021; 5:00 PM
LOCATION: Powered by Zoom Meeting by Dialing (646) 558-8656,
Meeting ID: 97946 4308 4889
PRESIDING OFFICER: Chairwoman Manna Jo Greene
LEGISLATIVE STAFF: Fawn A. Tantillo
PRESENT: Legislators Al Bruno, Peter Criswell, Laura Petit and Mary
Wawro
ABSENT: None
QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Tracey Bartels; Legislative Counsel Christopher Ragucci; Kenneth Gilligan, Esq., Ulster County Resource Recovery Agency (UCRRA)

Chairwoman Greene called the meeting to order at approximately 5:05 PM and lead the Pledge of Allegiance

Committee discussed going into executive session for various reasons. (See transcript)

Legislator Bartels said she had a time sensitive issue appropriate for the committee to discuss in executive session.

Motion No. 1 To enter Executive Session to discuss a personnel matter.
Motion Made By: Legislator Petit
There was not second

Chairwoman Greene suggested the committee could take this up in a future meeting.

Chairwoman Greene asked if there was any other business, hearing none;

Motion to Adjourn
Motion Made By: Legislator Criswell
Motion Seconded By: Legislator Bruno
No. of Votes in Favor: 5
No. of Votes Against: 0
Time: 5:31 PM

Respectfully submitted by: Fawn Tantillo
Minutes Approved: May 3, 2021

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(UCRRA)

Chairwoman Manna Jo Greene
I call to order the Energy and Environment Committee Special Meeting held on April 15,
2021 and ask if the clerk would call the roll please.

Fawn Tantillo
Manna Jo Greene.

Chairwoman Manna Jo Greene
President.

Fawn Tantillo
Mary Wawro is not with us yet. Al Bruno.

Legislator Albert Bruno
Here.

Fawn Tantillo
Laura Petite

Legislator Laura Petit
Here.

Fawn Tantillo
And Peter Criswell.

Legislator Peter Criswell
Here.

Chairwoman Manna Jo Greene
Okay, and let's take a moment and do the Pledge of Allegiance...and, there we go. Okay. And

Committee Members
I pledge allegiance to the flag of the United States of America, to the republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Chairwoman Manna Jo Greene
Thank you. Speaking of liberty in just...

Fawn Tantillo
One moment, Manna Jo, I have a caller at 845-594-4365. Can you tell us your name, please?

Ken Gilligan
Okay, Ken Gilligan.

Fawn Tantillo
Ken Gilligan?

Ken Gilligan
Yes.

Chairwoman Greene
Okay, we did, the Pledge of Allegiance. And the next item on the agenda is pending litigation. And it was our intention to go into executive session. But I, there's it's more complicated than when we call this meeting. And I'd like to call on legislative attorney, Chris wrote Gucci to advise us on whether or not we should proceed, and then we can have a discussion in open session and make that decision.

Counsel Ragucci
Thank you, Madam Chairwoman. Obviously, you know, this is a recently filed lawsuit. And in an abundance of caution, I would respectfully urge the committee not to discuss this matter at this time. There may be a future time when we could go into executive session to discuss this, but at this time, I would respectfully urge you not to do so publicly at this time.

Legislator Greene

Calling in I want to welcome Legislator Wawro. For the record, she is present. And, and just to bring her up to speed. When we called this meeting there, there was indication that people had a matter to talk about that required us going into executive session. And one of the things that people had referred to was the pending litigation. And our counsel has just advised us that we, you know, should not. It's very early in that process. And we really should essentially let the litigation go through its process, and that we should not go into executive session to talk about that.

Chairwoman Manna Jo Greene

There are other things that we can go into executive session to talk about. And I don't know if you have that handy, but if you do, I would like you to inform us just for future. But for now, since this meeting was noticed on a discussion of litigation for which if we were to discuss that we would need to go into executive session. But our, our attorneys advising us that it's very early in that process and that we should not be discussing litigation. legislator petite.

Legislator Laura Petit

Thank you. So, it's through the chair to our counsel. If we wanted to discuss steps that the that the legislature should be taking, as far as you know, hiring an outside unaffiliated organization, legal counsel, you know, to, to look into the allegations, because, you know, as a county, we very seriously, you know, take offense to any, any possible discrimination, you know, and certainly want to make sure our vendors are held to the highest standards. And there, there's also been, you know, allegations of potential litigation for other legislative actions, one coming from an agency board member, do we can we not discuss that at all? Or is that something for executive session?

Counsel Ragucci

If it relates in any way to the pending litigation, I would say that would be grounds for an executive session discussion and not a public discussion. If it's a simple call for an investigation, just a general request, then obviously, that wouldn't be subject under the under Section 105 to executive session.

Chairwoman Manna Jo Greene

Can you Do you have one...Have you read to me early, an excerpt from 105. Do you have that handy?

Christopher Raucci

I do.

Chairwoman Manna Jo Greene

As a matter, just so everybody understands, you know, would you like for the meeting and now, we're suggesting that we not meet on one that topic, please help us understand what that section says. And under what conditions we can meet and go into executive session. And I have one other question when I see Legislative Bartels?

Christopher Raucci

Sure. So, under Section 105, there is a list of permissible topics that can be addressed during executive session. I won't bore you with the ones that are obviously not relevant to our discussion now. But what...that there are two provisions that I think are relevant. The first relates to active litigation, which obviously was going to be the subject of our executive session today, prior to my advice that we don't discuss the lawsuit at this juncture. Another relevant section or the second relevant section involves employment of a particular person or corporations or matters leading to appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. Arguably, that could form the basis for another discussion that could be held an executive session based upon what I understand the issues at hand are.

Chairwoman Manna Jo Greene

Okay, and I think I saw Well, I'm gonna hold my question. And I see Legislator Bartels and then Legislator Bruno.

Legislator Tracey Bartels

Well, counsel just said, basically, what I was about to say is that I know, I have concerns raised to some members, and I'm going to be careful and speaking in public session. But I, I very much would like to have a conversation that I believe is executive session material, on personnel issues. And I'm not going to expand beyond that in public session. But that...if that can't happen today, because of the way it was noticed, I do believe, from my perspective, that the issues that I would like to speak about our, our time sensitive. But you know, so I don't, which is why I said last time, when so many members had left that I did...I just I don't think that we should wait necessarily to the next meeting to hold off this conversation. And we can, we can't talk about it as a group until then, I know that, but yes, but on the personnel issue, which is allowed an executive session, I definitely have things I would like to speak about. And I guess I don't need to remind this committee, but I do just since we are in public session that I mean, this is this the committee where...this is the appropriate committee for my conversation. I'm not a member of this committee. But this is the committee where this conversation has to happen, not a different committee.

Chairwoman Manna Jo Greene

Legislator Bruno.

Legislator Albert Bruno

Yeah, give given the circumstances, you know, we are in a public forum. And I think based on legal counsel, I think we should table our original idea for this meeting, and maybe bring it up at a different time. I don't think in any way shape or form this committee is authorized or should get ourselves involved in any litigation, much less something that as sensitive as the one that we're talking about, I think we need to let the legal process take its course, and then have a discussion like legislator Martell said about possible personnel issues or situations that are on

Chairwoman Manna Jo Greene
Legislator Petit.

Legislator Laura Petit

Um, what are our options should be the case, not ended up in court and be be settled out of court? Are we able to discuss it at that point? Or is it then no longer a valid case?

Chairwoman Manna Jo Greene
Please, Legislative Counsel.

Counsel Ragucci

If the case is resolved, you know that that would obviously extinguish the claim. I don't think it would limit the ability for the committee to perform its duties as an oversight body in any way. It just means that it's the end of the pending litigation in court.

Chairwoman Manna Jo Greene
Legislator Criswell.

Legislator Peter Criswell

I had a question about "oversight body". I, I would love to see some language on that. What exactly does that mean being an oversight body? Is that available to us? I'm sorry, I'm asking Legislative Counsel to the chair.

Counsel Ragucci

Yeah, yes, that this committee has the, the ability to review the decisions that RRA makes and things like that. There are some limitations, but there is language that I can send you that specifically discusses that point.

Legislator Peter Criswell

I would love to see that. If and I'd appreciate that.

Christopher Raucci

Thank you, of course. My pleasure.

Chairwoman Manna Jo Greene

And to send to all of us. Legislator Bruno.

Legislator Albert Bruno

Yeah, I will run with Legislator Criswell's question... comment. I was under the understanding that the UCRRA [Ulster County Resource Recovery Agency] is autonomous, and that we're really not an oversight, but an advisory committee towards them. Is that correct?

Christopher Ragucci

That's correct. "Oversight" was a bit of a strong word. It was more of an advisory committee. We obviously appoint members to the board. So that's another point where the committee, you know, exercises certain control.

Legislator Albert Bruno

And if I can say that, since we're not an oversight committee, per se, I think us taking an opinion on how they do the day to day operations. at this particular time is inappropriate,

Legislator Laura Petit

No. I disagree.

Legislator Greene

Legislator Bartels, can you hold for a minute, I just I want to get clarity for the next meeting. And in general, if the reason this meeting was posted, and when you have a special meeting, you need to have a reason for a special meeting. So, it was posted the way it was. But if we're in the middle of a meeting, and someone brings up something that clearly needs to go into executive session, they can do so without it being noticed ahead of time. In other words, that happens all the time that somebody raises something and, and the attorney will say that really should be discussed in executive session. And it wasn't noticed it just came up at that time. And I just want to be clear, that the reason...and, and I want to be sure there's consensus on this, but my recommendation is that we if there are other things to discuss that are subject to executive session, but not the pending litigation, that we don't have to notice those moving forward. I just want to be clear on that. And then I want to get back to Legislator Bartels?

Legislator Tracey Bartels

Thank you and I just following on Legislator Criswell, and then Legislator Bruno's comments. I just want to say from my perspective, you know, the relationship between the legislature and the county and the RRA is actually, it's actually pretty complicated. You know, that the idea, that the idea that we don't have direct oversight is true, yes, Like they are a public benefit corporation. And as such, you know, they operate with us with a certain sense of autonomy. But the reality is, we are, we're connected, you know. If it falls short in their budget, we're responsible to make up the difference in the Net Service Fee. If they want to bond, and it exceeds a very nominal number, they have to come to us and we have to agree to it. So, what...the autonomies gotten a little grayer.

The second thing that I mentioned, is something that happened over time. And so we are very seriously connected. Not to mention the fact that we appoint their full board. And, and the fact that ...that then ultimately, they're responsible for the county's waste, and we authorize them to do the, the, the plan that we all just approved on our behalf for all the residents of the county. And I don't mean to sound like I'm making a speech. But I have a lot of things I want to say that I need to say an executive session. And so that's, that's how I'm leaving this meeting today. So, to let you all know, as committee members and people I respect very, very highly, that I have a lot of things to say to you all and to talk with you all about. And that needs to happen in an executive session by, by statute, by the...legally it needs to happen in executive session. I'm not trying to skirt a public meetings law, I'm saying that there are things that I need to talk about an executive session, and not just me. I'm just saying I'm speaking for myself right now.

Chairwoman Manna Jo Greene
Legislator Bruno

Legislator Albert Bruno

Yet...Chairman to Legislator Bartels... I actually agree with you. I think our committee, we should really actively look towards maybe amending the oversight of...that we have over them and clarify it. It is a gray area and has become grayer over the years. I've noticed. And I think as a legislature, as a committee, we should look into that. And possibly if it means adjusting the Charter then I think we should move towards that as well. That's it. But I think at this point right now, I don't think we want to put ourselves in legal jeopardy over a small issue. This may not be the hill we want to die on, so to speak.

Chairwoman Manna Jo Greene
I think Legislator Criswell and then Legislator Petit

Legislator Peter Criswell

Yeah. I'm just curious, are there any other organizations that we have a similar relationship to that we could model? That kind of..

Unknown Speaker

No, that's a unique relationship. Okay.

Legislator Albert Bruno

Yes, it is.

Legislator Laura Petit

The IDA is the closest.

Chairwoman Manna Jo Greene

Well, let's go to Legislator...was Legislator Petit next? And then unless it's a direct response, counsel?

Counsel Ragucci

It is just very quickly; I would like to note that we are regulated pretty strictly by state statute in this area too. Which we can certainly look at and review to see if there's any possible maneuvering we can do.

Chairwoman Manna Jo Greene

Legislator Petite.

Legislator Laura Petit

I mean, I would like to make a motion to go into executive session for the purpose of discover of discussing personnel. I feel like we're doing a dance here. Unless because it wasn't noticed. You don't want to do that.

Chairwoman Manna Jo Greene

I, I would like counsel's advice as to whether they recommend that we, you know, I'm, I'm perfectly open to that, as long as it's really clear that we're not discussing...

Ken Gilligan

May I be heard, Madam Chairman, this is Kenneth Gilligan. I am the attorney for the agency.

Chairwoman Manna Jo Greene

Yes, go ahead. Mr. Gilligan.

Ken Gilligan

I don't think you can go into executive session for, for personnel, which you clearly... it's the agency's personnel, it's not your personnel. So, if you want to have a discussion, it has to be an open forum. As to the litigation, litigation, that definitely is in it is already in litigation, and It shouldn't be subject to any private or public discussions at this time at all, although you're not a party to the suit, but certainly you have some interest in it.

Legislator Laura Petit

There is pending litigation since, frankly one of your board members...

Ken Gilligan

But not against the county, it's pending against the Ulster County RRA

Legislator Laura Petit

One of your board members said there would be litigation against the, the legislature so,...

Ken Gilligan

or maybe...

Legislator Laura Petit

One of your board members said there is pending litigation against the legislature for our decision to not put Fred Wadnola back on the board.

Chairwoman Manna Jo Greene

I think...But if

Ken Gilligan

There's no pending litigation. The agency is... Are you saying the agency is as pending litigation against the board of the legislature? That's not true. I don't know where you're getting your information from?

Chairwoman Manna Jo Greene

Let's get this back under control. Through the chair only. I'm recognizing our counsel. And then I'll recognize Legislator Bartels.

Counsel Ragucci

I would again just like to urge us not to discuss any potential litigation that was threatened against us. But I would also add that under Section 105, a basis for entering into Executive, executive session would be current or future investigation or litigation. So pending or potential future litigation could constitute a valid basis. I would also note, respectfully that members of the board who are appointed by the legislature potentially could fall under the other category of executive session subject matter under Section 105.

Chairwoman Manna Jo Greene

Thank you. Legislator Bartels.

Legislator Tracey Bartels

I thought...it's probably best if I stay quiet.

Fawn Tantillo

You'd have a motion on the floor. You don't have a second yet.

Chairwoman Manna Jo Greene

And the motion is?

Fawn Tantillo

To go into executive session. Laura moved to go into executive session.

Legislator Tracey Bartels

I need to reverse my quiet move for one second, because Cher green, you had asked counsel, I believe whether or not it was advisable to go into executive session for this other purpose. Given the notice. That's where we had left it before we

Christopher Raucci

Can respond to that?

Chairwoman Greene

Yes, please.

Counsel Ragucci

Okay, sorry, I just don't want to jump out of turn. You know, I think obviously, it could be deemed new business. And it could be deemed, at your discretion as the Chairwoman, an appropriate subject to discuss. But I leave that to your discretion, I don't see any legal issue with it. But whether you would want to do so considering the narrow scope of the notice for this particular meeting. You know, it could it could be problematic potentially.

Legislator Albert Bruno

That should be in a general meeting.

Christopher Ragucci

Or, or just another meeting that addresses this specific subject in notice provision.

Legislator Greene

So, my recommendation is that we have a meeting coming up fairly soon. And if somebody wants to bring up at our next meeting, I mean, it's hard enough to get all of us together at one time. So, my suggestion would be just to err on this side of caution, That if somebody has an issue they would like to raise, that needs to be discussed in executive session. Unless we suddenly have a huge agenda. At our next meeting. My preference would be that we, we hold off unless it's urgent, or an emergency. And that's, that's my sense. Um, we don't have a second yet. And I...just if somebody wants to second, we can for the purpose of discussion, we can do that or just offer your comments. Okay, now,

Legislator Peter Criswell

I'm in agreement with Manna Jo. I feel like we should err on the side of caution.

Legislator Albert Bruno

I am as well. Although if I may, sorry.

Chairwoman Manna Jo Greene

Go ahead.

Legislator Albert Bruno

At the same time, I really tend to agree with both Legislator Petit and Legislator Bartels. It's very grey, and I can understand why and appreciate it. But at the same time, I think there are issues that, as a committee, we need to bring up and we need to discuss for future as we move forward with the RRA and with whatever other department we may have to have a relationship with. And, that being said, I don't think this is the time. I don't think this is the forum to do that. So, I won't be a second on this.

Legislator Peter Criswell

Legislator Wawro. I think I cut you off. I'm sorry. I apologize.

Chairwoman Manna Jo Greene

Legislator Wawro, is there anything else before I call for a motion to adjourn?

Chairwoman Greene

No. Is there any other business? You know, we had a very specific notice. But is there other business that anyone wants to discuss in public session? All right, hearing none. I would entertain a motion to adjourn.

Legislator Peter Criswell

So moved.

Legislator Albert Bruno

Second.

Chairwoman Manna Jo Greene

Okay. Move by Legislator Criswell. Seconded by legislator Bruno and Legislator Warwo. All in favor, please signify by raising your hand and or saying aye.

Committee Members

Aye.

Chairwoman Manna Jo Greene

Any opposed? All right, Meeting adjourned and we look forward to reconvening at a regular meeting.