

Laws and Rules, Governmental Services Committee
Meeting Minutes

DATE & TIME: September 22, 2014 – 6 PM
LOCATION: Karen L. Binder Library, 6th Floor, COB, Kingston, NY
PRESIDING OFFICER: Chairman Richard Parete
LEGISLATIVE STAFF: Fawn A. Tantillo, Sr. Legislative Employee
PRESENT: Legislators Lynn Archer, David Donaldson, Kevin Roberts and Kenneth J. Ronk, Jr.
ABSENT: None
EXCUSED: None
QUORUM PRESENT: Yes
OTHER ATTENDEES: Legislator Mary Beth Maio; Legislative Counsel Christopher Ragucci; Ulster County Attorney Bea Havranek; Tom Kadgen and Vic Melville, observers from the League of Women Voters; Meg Carey and Kevin Smith, Friends of the Catskill Mountain Rail Road; Kathy Nolan, Ulster County Trails Advisory Committee.

Legislator R. Parete called the meeting to order at 6:02 PM.

Motion No. 1: Motion to approve the August 18, 2014 meeting minutes
Motion Made By: Legislator Donaldson
Motion Seconded By: Legislator Archer
Discussion: None
Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Archer, Donaldson, Roberts and Ronk
Voting Against: None
No. of Votes in Favor: 5
No. of Votes Against: 0
Disposition: Carried

Motion No. 2: Resolution No. 274 – September 23, 2014

Text of Motion: Resolution No. 274 - Adopting Proposed Local Law No. 3 of 2014, A Local Law Amending Local Law No. 10 of 2008 (A Local Law Adopting An Administrative Code for the County of Ulster, State of New York) To Require Certain Resolutions Approving The Execution Of Contracts And Contract Amendments In Excess Of \$50,000.00 Entered Into By The County For Public Services Be Supplemented With Standardized Information Upon Filing

Motion Made By: Legislator Donaldson

Motion Seconded By: Legislator R. Parete

Resolution No. 274 Summary: This Resolution will set a public hearing to receive comments on Proposed Local Law No. 3 of 2014.

Legislator Donaldson offered the following amendment

- change the word “Terminate” in the title to “Suspend”;
- before the first RESOLVED add “WHEREAS, significant litigation expense is expected to be incurred in the next six weeks as a result of recently imposed deadlines and motion practice; and

WHEREAS, adjourning these deadlines for the time being to allow the County and the CMRR to continue discussions of resolving outstanding issues between the parties is in the best interests of both parties with respect to controlling litigation costs and productively resolving the dispute between them; now, therefore be it

RESOLVED, that the County of Ulster will agree to an adjournment of litigation with the CMRR until January 31, 2015, so that a settlement can be negotiated with the CMRR, and that legal expenses can immediately be stopped on both sides; and, be it further

RESOLVED, that the County Attorney is directed to participate in an adjournment request to be submitted to the Ulster County Supreme Court; and, be it further” ;

- After the first RESOVED add “during this period” before “the County of Ulster will agree to...” and in that same RESOLVED after the words “regarding the operation and maintenance of Class 1 Rail Road” add “on the track it carries passengers on”

Seconded by Chairman R. Parete.

Discussion of Amendment:

Counsel Ragucci asked Counsel Havranek to explain where the lawsuit between the Catskill Mountain Rail Road (CMRR) and the County of Ulster stood procedurally.

Counsel Havranek gave an update on the lawsuit that included orders for discovery and other motions before the court and expressed some concerns about this resolution. She said there was no urgency to pass this resolution and urged the committee not to pass it. She hoped to give the full Legislature more details in Executive Session tomorrow.

There was a discussion about several points regarding the terms of the lease, rental payments and how the county plans to review records when received.

Legislator Ronk asked if the case needed to be adjourned or suspended in order for the County to discuss a settlement with CMRR

Counsel Havranek said both avenues were be pursued simultaneously.

Legislator Donaldson said the county instigated the lawsuit by bullying the CMRR and sited several instances where he felt this was demonstrated. He feels strongly that it is time to stop the lawsuit and let the lease run out. He sees the suit as an effort to hurt or punish CMRR and “bleed them dry”.

Legislator Donaldson pointed to the success CMRR demonstrated with the events of the last two weekends. He hoped to stop the lawsuit and allow the CMRR to show Ulster County their ability to build on that success and do what they claim can be done for the local economy.

Legislator Donaldson sited a recent Federal case that ruled in the favor of property owners blocking a trail across a former rail bed. He recognized that this decision was in reference to Federal land but feels this will have a local impact blocking the use of the right-of-way for a trail by property owners if and when the rail road is removed.

Legislator Ronk noted that Minority Counsel advised his caucus against supporting this Resolution. He pointed out that CMRR initiated the lawsuit against Ulster County and took umbrage with the implication that it was an attempt to harm CMRR or “bleed them dry.” He feels the lawsuit is an attempt to hold CMRR to the terms of their lease. Legislator Donaldson disagreed and there was a discussion about several issues raised including insurance, financial records, other lawsuits related to individuals injured on the CMR Right-of-way who sued Ulster County for damages and what court orders are pending.

Chairman R. Parete asked for a time line estimate and questioned if the lawsuit will be decided before the CMRR lease expires in May 2016.

Legislator Archer expressed concern about the Legislature inserting itself into this legal action.

Legislator Roberts felt they should take the advice of Counsel.

Legislator Donaldson felt the Legislature should insert itself because the Legislature approved the lease. He feels the Legislature should be advised on all lawsuits, should be consulted when the County spends over \$90,000 in legal expenses and should be advised when hundreds of man-hours are expended. He was frustrated that he had not received documentation he requested from the County Attorney about the expense associated with this lawsuit. He felt the County Executive circumvented the Charter by spending in excess of \$50,000 on this lawsuit without Legislative approval.

Counsel Havranek assured the committee that Legislative Counsel Wiener had all the information about the cost of the lawsuit to date. She meets with Legislative Counsel Weiner monthly and gives him detailed reports including an outline of all the expenses associated with this and other lawsuits. Her office handles dozens of lawsuits and she would be happy to give reports on all of them on a regular basis in Executive session.

Legislator Ronk agreed that the Charter had been circumvented and the contract for outside legal services should have come before the Legislature. However, he felt it was a moot point and was confident that the Legislature would have approved the expense if it had come to them.

On the Amendment:

Roll Call Vote:	No
Voting In Favor:	Legislators R. Parete and Donaldson
Voting Against:	Legislators Archer, Roberts and Ronk
No. of Votes in Favor:	2
No. of Votes Against:	3
Disposition:	Amendment Failed

Resolution No. 274

Roll Call Vote: No
Voting In Favor: Legislators R. Parete and Donaldson
Voting Against: Legislators Archer, Roberts and Ronk
No. of Votes in Favor: 2
No. of Votes Against: 3
Disposition: Failed

Motion No. 3: **Resolution No. 309** – September 23, 2014

Text of Motion: **Resolution No. 309** - Setting A Public Hearing On Proposed Local Law No. 10 of 2014 (A Local Law Respecting the Outdoor Restraint of Companion Animals) To Be Held On Wednesday, October 15, 2014 At 6:00 PM

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Roberts

Resolution No. 309 Summary: This Resolution will set a public hearing to receive comments on Proposed Local Law No. 10 of 2014

Discussion:

Legislator Ronk said Proposed Local Law 10 was discussed at length in the Law Enforcement, Public Safety Committee but he thinks it is not ready to move forward. Some members of that committee wanted to move ahead with the public hearing and fix the Proposed Local Law later. Legislator Ronk feels this is a waste of taxpayer time and money to hold the public hearing before the law is finalized because it will result in the need for additional public hearings after changes are made.

Legislator Ronk outlined his concerns about enforcement, due process, how cases will be heard and the roll of the District Attorney (DA) in prosecuting cases.

Counsel Havranek explained the requirements and roll of the DA in prosecuting cases. She said Counsel Susan Plonski from her office was experienced and had success prosecuting animal abuse cases and offered to meet with Legislative Counsel to discuss the Proposed Local Law 10 and that invitation was never responded to. Counsel Havranek believes the current version is strong and sound.

Chairman R. Parete expressed concern with various details of the Proposed and does not believe this is something the County should be taking on. He feels there are State and Town laws to address this issue.

Legislator Ronk said there are no State Laws regarding “tethering dogs” and similar laws have been adopted in other counties.

Chairman R. Parete asked how many successful prosecutions those counties report.

Legislator Archer said local dog control officers needed this to enable them to protect dogs from habitual abuse. She said that today, there is no way to protect animals from owners who should not own dogs and was amazed anyone would question the need for the law.

Chairman R. Parete pointed out that this law doesn’t prevent someone from owning a dog. If a dog is confiscated under this law, they can just get another one. He pointed out that some dogs would prefer to be outside and this law does nothing to protect dogs from a bad dog owner. He would like to see a law that protects dogs from abusive owners and creates a registry for animal abusers.

Legislator Donaldson felt that the law is not unreasonable and would not be used against owners unfairly. He feels it sets a minimum standard and has enough leeway for responsible dog owners. He pointed out that nothing could prevent all abuse but it will make people more aware.

Legislator Ronk said he had a lengthy discussion in the Law Enforcement Committee meeting and many of the changes in this version came out of that meeting. He doesn’t believe it is where it needs to be and fears it will create nuisance suits plotting neighbor against neighbor and is ripe for abuse. He cited several examples where the Proposed Law is open to interpretation and unclear.

There was a discussion about other details of the law, how it would be enforced, how abuse could be documented, if a dog on a 3 or 5’ leash tied outside a store would be in violation and associated fines and penalties.

Chairman R. Parete travels to all areas of the County on a daily basis at work and has not seen this as a problem. He knows it is a “feel good” measure but doubts it will do any real good for dogs. He notes the Law would require people found guilty to register as animal abusers and there is no animal abuse registry in Ulster County or New York State.

Legislator Archer said that without this law, there is no recourse for dog control officers to deal with habitual animal abusers.

There was a discussion about what the recourse actually is and that while the dog can be taken away from an owner after the third conviction there is nothing preventing that individual from getting another dog.

Legislator Roberts moves to refer.

Seconded by Chairman R. Parete.

Discussion:

Legislator Roberts felt the law is not perfect and doesn't see this as a County wide problem. He thinks it may be a problem in the City and a law like this might be better if it was done by the City itself. In light of all the questions raised he moved to refer the Resolution back to the Law Enforcement, Public Safety Committee.

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Roberts
Voting Against: Legislators Archer, Donaldson and Ronk
No. of Votes in Favor: 2
No. of Votes Against: 3
Disposition: Referral Failed

On Resolution No. 309

Roll Call Vote: No
Voting In Favor: Legislators Archer, Donaldson and Ronk
Voting Against: Legislators R. Parete, Roberts
No. of Votes in Favor: 3
No. of Votes Against: 2
Disposition: Carried

Motion No. 4: **Resolution No. 315**– September 23, 2014

Text of Motion: **To postpone Resolution No. 315** - Adopting Proposed Local Law No. 2 of 2014, A Local Law To Provide For The Collection Of Delinquent Village Real Property Taxes

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Archer

Resolution No. 315 Summary: This resolution would adopt a Local Law to help Villages by making them whole in much the same manner the County makes the School Districts and Towns whole for delinquent taxes,

Discussion:

Chairman Parete and Legislator Ronk explained that Legislative Chairman John Parete, the sponsor, asked to postpone this resolution until next month.

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Archer, Donaldson, Roberts and Ronk
Voting Against: None
No. of Votes in Favor: 5
No. of Votes Against: 0
Disposition: Motion to Postpone Carried.

Motion No. 5: **Resolution No. 316**– September 23, 2014

Text of Motion: **Resolution No. 316** - Adopting Proposed Local Law No. 5 of 2014, A Local Law Authorizing The Award Of Purchase And Service Contracts On The Basis Of Best Value Criteria Pursuant To New York State General Municipal Law And New York State Finance Law

Motion Made By: Legislator Archer
Motion Seconded By: Legislator Roberts

Resolution No. 316 Summary: This resolution will approve a local law expanding the criteria for the awards for purchases and services to include factors other than cost alone.

Discussion: None

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Archer, Donaldson, Roberts and Ronk
Voting Against: None
No. of Votes in Favor: 5
No. of Votes Against: 0
Disposition: Carried.

Motion No. 6: **Resolution No. 317**– September 23, 2014

Text of Motion: **Resolution No. 317** - Adopting Proposed Local Law No. 8 of 2014, A Local Law Amending Local Law No. 5 of 1989 (A Local Law Requiring Regulations Regarding The Sale Of Motor Vehicle Fuels) To Establish Certain Consumer Protection Practices In Ulster County

Motion Made By: Legislator Donaldson

Motion Seconded By: Legislator Roberts

Resolution No. 317 Summary: This resolution will approve a local law establishing regulations for posting gas prices.

Discussion:

Legislator Ronk said he is against this law. He pointed out that gas stations are heavily regulated and they are not charging more for credit cards, they are giving a discount for cash. When they offer a cash discount they are already required to post the prices for cash and credit on each pump and the road sign should show the lowest price. He believes this may be taking a valuable discount away from consumers and doesn't make allowances for town sign ordinances that may prohibit the businesses from posting multiple prices on road signs.

Legislator Donaldson said he believes the practice of posting only the discounted cash price is a 'bait and switch' tactic.

Chairman R. Parete said neighboring counties post both prices on the road signs and he believes Ulster County businesses will do it also.

Legislator Ronk fears this may be taking a valuable discount away from consumers and doesn't make allowances for town sign ordinances that may prohibit the businesses from posting multiple prices on road signs.

Legislator Ronk is also concerned that continuing to pile regulations upon locally independently owned "mom & pop" gas stations we will put them out of business and eventually only have corporately owned gas stations with no local ties.

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Archer, Donaldson and Roberts
Voting Against: Ronk
No. of Votes in Favor: 4
No. of Votes Against: 1
Disposition: Carried.

Motion No. 7: **Late Resolution No. 347**– September 23, 2014

LATE Resolution No. 347 - Authorizing The Chairman Of The Ulster County Legislature To Execute An Agreement With The New York State Division Of Homeland Security And Emergency Services For The FY14 State Homeland Security Program (SHSP) - Amending the 2014 Ulster County Budget – Emergency Communications/Emergency Management

Text of Motion: To accept Resolution No. 310 for Lateness

Motion Made By: Legislator Roberts
Motion Seconded By: Legislator Parete

Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Archer, Donaldson, Roberts and Ronk
Voting Against: None
No. of Votes in Favor: 5
No. of Votes Against: 0
Disposition: Carried for Lateness

Resolution No. 347 - Authorizing The Chairman Of The Ulster County Legislature To Execute An Agreement With The New York State Division Of Homeland Security And Emergency Services For The FY14 State Homeland Security Program (SHSP) - Amending the 2014 Ulster County Budget – Emergency Communications/Emergency Management

Motion Made By: Legislator Roberts
Motion Seconded By: Legislator Parete

Resolution No. 310 Summary: This resolution with authorize the Chairman of the Legislature to accept a State Grant.

Discussion: None
Roll Call Vote: No
Voting In Favor: Legislators R. Parete, Archer, Donaldson, Roberts and Ronk
Voting Against: None
No. of Votes in Favor: 5
No. of Votes Against: 0
Disposition: Carried

Old Business

None

New Business

Chairman Parete reminded the committee that he would like to create a policy for naming County Property such as roads, bridges, parks and other assets and thanked the staff for doing some research about it. He distributed a list of links to similar policies created by other government agencies across the country and a draft of a resolution proposal he wants to discuss next month.

There being no further business before the Committee, a motion was made by Legislator Ronk, seconded by Legislator Archer and carried to adjourn the meeting at 7:09 PM.

Respectfully submitted this 23st day of September, 2014
Fawn A. Tantillo, Senior Legislative Employee
Minutes Approved on October 20, 2014.