

**Laws & Rules, Governmental Services Committee
Regular Meeting Minutes**

DATE & TIME: March 18, 2019 – 6:00 PM
LOCATION: KL Binder Library, 6th Floor, County Office Building
PRESIDING OFFICER: Chairman Donaldson
LEGISLATIVE STAFF: Jay Mahler, Deputy Clerk
PRESENT: Legislators Bartels, Heppner, Roberts (arrived at 6:07 PM),
Rodriguez & Ronk
ABSENT: None
QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Archer, Delaune, Greene, Nolan, Joseph Maloney & Woltman, Legislative Counsel Gordon, Minority Counsel Pascale, Deputy Comptroller Gallo – UC Comptroller’s Office, Tom Kadgen – League of Women Voters

Chairman Donaldson called the meeting to order at 6:05 PM.

Motion No. 1: Moved to APPROVE the Minutes of the February 19, 2019 meeting

Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Discussion: None

Voting In Favor: Legislators Donaldson, Heppner, Roberts, Rodriguez & Ronk
Voting Against: None
Votes in Favor: 5
Votes Against: 0
Disposition: **Minutes APPROVED**

Resolutions for the March 19, 2019 Session of the Legislature

Resolution No. 481 of 2018: Establishing A Policy To Prohibit The Use Of Public Funds To Place The Likeness Or Name Of Elected Officials On All Ulster County Board Of Elections Material

Resolution Summary: This resolution establishes a policy to prohibit County elected officials from appearing by likeness, picture, or be named, or otherwise be identified or referenced on any Ulster County Board of Elections material, including but not limited to, signage, publications, mailings and the Board of Elections website.

Chairman Donaldson advised the members that some concerns were raised pertaining to language in the policy that may prohibit names of elected officials from appearing on ballots and asked for a motion to amend the policy to exclude being named on a ballot as a candidate for elected office.

Motion No. 2: **Motion to AMEND Resolution No. 481 of 2018 to include an exception for being named as a candidate for elected office.**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Discussion:

Chairwoman Bartels questioned whether the exception should be expanded beyond just ballots, stating that the Board of Elections website includes the name of candidates in election results and other areas. She suggested broader language which references all official election materials. Legislator Ronk agreed and added that Sample Ballots, although containing the word ballot, may also need to be named as an exclusion. Legislation Sponsor Joseph Maloney agreed that there may need to be broader exclusions.

The members determined that Legislative Counsel should consider language which provides for all appropriate exemptions. Minority Counsel suggested language that references any and all materials required by the NYS Board of Elections. Chairman Donaldson suggested giving counsel time to prepare the required amendment language. He also advised the members that legislative staff has been asked to follow up with Board of Elections Commissioners as to the status of the administration of their website following discussion at the March 6th special committee meeting. He reminded the members that the possibility of contacting with an independent website provider for the BOE was suggested at the March 6th meeting.

Disposition: **NO ACTION TAKEN**

Resolution No. 281 of 2018: Establishing A Policy To Prohibit The Use Of Public Funds To Place The Likeness Or Name Of Elected Officials On All Promotional And Informational Signage On County Owned Property

Resolution Summary: This Resolution establishes a policy prohibiting County elected officials from appearing by likeness, picture, or be named, or otherwise identified or referenced on any promotional and informational signage on County owned property, where same is paid for or produced in whole or in part with public funds of any kind including grant funds, excluding his or her official web page or the Ulster County Directory or during a declared state of emergency.

Motion No. 3: **Resolution No. 281 of 2018 MOVED FOR DISCUSSION**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Discussion:

Legislator Joseph Maloney suggested the formation of a special committee, as has been done in the past on other policies, to review the resolution to address any issues that have been raised. Chairman Donaldson asked if there were any volunteers to work on the subcommittee. Legislator Ronk volunteered. Chairman Donaldson added himself and Legislator Heppner to the subcommittee and advised Legislation sponsor Joseph Maloney that he would let him know when the subcommittee meeting is scheduled.

Disposition: NO ACTION TAKEN

Resolution No. 473: Setting A Public Hearing On Proposed Local Law No. 23 Of 2018, A Local Law Entitled “Ulster County Ethics Law”, To Be Held On Tuesday, April 9, 2019 At 6:10 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, April 9, 2019 At 6:10 PM to allow the public to offer comments on Proposed Local Law Number 23 of 2018.

Motion No. 4: Resolution No. 473 of 2018 MOVED FOR DISCUSSION
Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Chairman Donaldson asked Legislator Ronk for an update on the status of the Proposed Law. Legislator Ronk responded that, at the request of the committee, he sent legislative staff a summary prepared by Minority Counsel of the differences between the proposed law and the Orange County Law which was used as a model. The summary is appended to these minutes and was provided to members in the meeting materials. He added that there was still time before the deadline to submit a referendum question to the Board of Elections if the members wanted to take a month to further review it. Legislator Nolan asked for a summary of the differences between the current and proposed Ethics Law. Chairwoman Bartels stated that she had begun compiling comments and questions which she said she would forward to Chairman Donaldson.

Disposition: NO ACTION TAKEN

Resolution No. 15: Setting A Public Hearing On Proposed Local Law No. 1 Of 2019, A Local Law Amending The Code Of The County Of Ulster In Relation To Local Law No. 5 Of 1991 (A Local Law Adopting A Hotel And Motel Room Occupancy Tax) To Clarify The Tax Law’s Application To Short-term And Vacation Rentals, To Be Held On Tuesday, April 9, 2019 At 6:00 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, April 9, 2019 At 6:00 PM to allow the public to offer comments on Proposed Local Law Number 1 of 2019.

Chairman Donaldson stated that many people from the hospitality industry attended the special committee meeting on March 13th. He added that they were largely opposed to the legislation. Legislator Rodriguez advised the members that, although he had some comments on the law, the consensus at the special meeting was to refer the legislation to the Ways & Means Committee for consideration.

Legislator Ronk clarified that the proposed law would ultimately come back to the Laws and Rules Committee.

Motion No. 5: Motion to REFER Resolution No. 15 to the Ways & Means Committee
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Ronk

Discussion:

Legislator Rodriguez commented that the current system needs to be improved and wanted the sponsor of the measure to know that members agree some legislative action should be taken. Chairman Donaldson advised the members that it was mentioned at the special committee meeting that other counties have since regretted entering into voluntary tax agreements. He added that he has not been able to substantiate those claims. Legislator Joseph Maloney informed the members that he has been in touch with the Clerk in Sullivan County, who said that they are very happy with the agreement and the more than \$200K a year they have been collecting since enacting it.

Voting In Favor: Legislators Bartels, Donaldson, Heppner, Roberts, Rodriguez & Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: **Resolution REFERRED TO WAYS & MEANS COMMITTEE**

Resolution No. 93: Setting A Public Hearing On Proposed Local Law No. 2 Of 2019, A Local Law Amending Local Law No. 2 Of 2006 (A Local Law Adopting A County Charter Form Of Government For The County Of Ulster, State Of New York) And Amending Local Law No. 10 Of 2008 (A Local Law Adopting An Administrative Code For The County Of Ulster, State Of New York), To Amend The Term Of Office For Members Of The Ulster County Legislature, To Be Held On Tuesday, April 9, 2019 At 6:15 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, April 9, 2019 at 6:15 PM to allow the public to offer comments on Proposed Local Law Number 2 of 2019.

Motion No. 6: **Resolution No. 93 MOVED FOR DISCUSSION**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Roberts

Discussion:

Legislator Heppner commented that when the legislation was discussed last year staggered terms was a large part of the conversation and asked if it was considered again. Legislator Ronk responded that he was in favor of staggering the terms, but that there are a number of issues with it, including finding a solution to the problem of voters being represented by someone they did not vote for after redistricting. He added he felt this was an important issue to bring to the voters and stated that a two-year term left legislators with only one year to govern before they had to campaign again. He said that there is a learning curve for legislators and felt that it takes time to learn about departments and county operations. He added that a four-year term would be the cheapest and most effective form of campaign finance reform.

Legislator Rodriguez stated that he also had introduced a law to extend the legislative term in the past and expressed his appreciation for Legislator Ronk’s comments. He added that he had concerns with limiting the electorate’s ability to change their government every two years. He stated that changing to a four-year term will also create issues during redistricting.

Chairman Donaldson stated that he did not support four-year terms adding that Legislators should have to go back to voters every two years. He added that he did not agree with term limits for Legislators. Chairwoman Bartels advised the members that she agreed with Legislator Ronk and felt that a four-year term allowed members to have a more reasonable learning curve, to build relationships and to not have to constantly run for office. Regarding staggered terms, she stated that she did not have a big problem with the entire body being up for election at the same time. Legislator Heppner informed the members that he was opposed to the measure the last time because it was combined with the term limit legislations. He added that he had concerns with all elected officials in the county being four-years because of the power it would take away from voters to change their government. He added that he was willing to support the law going to public hearing to continue the discussion.

Legislator Joseph Maloney suggested a three-year term. Legislator Heppner advised the members that Greene County Legislature has three-year terms. Legislator Joseph Maloney stated that the current two-year term really only allows the members a nine-month time frame after being elected before they have to start campaigning again. He added that discourages legislators from introducing more controversial issues, or bigger matters that may take a longer time to work through. Legislator Ronk agreed with Legislator Joseph Maloney and Chairwoman Bartels and added that he speaks to his voters constantly, and does not need a two-year term to force him to reach out to his constituents. Legislator Nolan stated that she has recently been persuaded by constituents that a longer term may be beneficial. She agreed with the suggestion of a three-year term.

Chairman Donaldson stated that he could support a three-year term, but not a four-year term. Legislator Rodriguez commented that it might be wise to look at how Greene County handles a three-year term during reapportionment. Legislator Ronk stated that his primary concern with a three-year term was that legislative elections would not remain in line with local election cycles. He added that every twelve years local candidates would be subjected to the political whims of a Presidential Election. Chairman Donaldson asked if a four-year term would be lined up with the Comptroller or the Executive. Legislator Heppner stated that he would be more in favor of the legislative races lining up with the Comptroller. The members discussed the possible enactment dates for the law and agreed that the effects of redistricting should be less dramatic than experienced in 2011.

Chairman Donaldson asked what the will of the committee was on the Resolutions. Legislator Joseph Maloney suggested postponement if the members were going to continue a discussion of a three-year term, or a vote on the Public Hearing if the four-year term was agreed upon. Legislator Ronk stated that he would rather stay at two-years than go to three. He added that he was willing to postpone. Chairwoman Bartels said she felt there were a number of good concerns brought up and asked if the various terms could be worked out on paper so the members could see how elections line up. Legislator Ronk offered to work out the various elections for the members.

Chairman Donaldson asked why members believed it would be preferable to have the legislative election line up with the Comptroller over the Executive. Legislator Heppner responded that because the Legislature and the Executive work closely together on setting and implementing policies, voters should be able to make a change to one or the other every two years. Chairwoman Bartels added that continuity of government is important and a possible change to both the Legislature and Executive at the same time could pose many problems. Legislator Heppner

commented that the same issue was discussed at length in the Madison Papers when Constitutional drafters were considering the terms of office of the President and Congress.

Motion No. 7: TO POSTPONE Resolution No. 93
Motion By: Legislator Ronk
Motion Seconded By: Legislator Donaldson

Discussion: None

Voting In Favor: Legislators Bartels, Donaldson, Heppner, Roberts, Rodriguez & Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: **Resolution POSTPONED**

Resolution No. 120: Amending The Rules Of Order To Modify Resolution Deadline

Resolution Summary: This resolution amends the Rules of Order to modify Resolution deadline to require that Regular Resolutions be filed with the Clerk of the Legislature not later than 12:00 noon twelve days in advance of the first Regular meeting date of Committees.

Motion No. 8: Resolution No. 120 MOVED FOR DISCUSSION
Motion By: Legislator Heppner
Motion Seconded By: Legislator Rodriguez

Discussion:

Chairman Donaldson informed the members that they have an amended version in front of them which allows for the consideration of late resolutions by committees of original jurisdiction whenever possible. Legislator Ronk stated that the change was discussed at length at the special meetings and offered an amendment to the deadline day of seven days.

Motion No. 9: TO AMEND Resolution No. 120 to SEVEN days in advance of the first Regular meeting date of Committees.

Motion By: Legislator Ronk
Motion Seconded By: Legislator Roberts

Discussion:

Legislator Archer stated that she felt the change supported both Legislators and Legislative Staff and thanked the members for their time in considering it. Legislator Roberts advised the members that he would support the change with the option of making additional amendments, because the change required two readings, if the event that issues are expressed with the proposal.

Voting In Favor: Legislators Roberts & Ronk
Voting Against: Legislators Bartels, Donaldson, Heppner & Rodriguez
Votes in Favor: 2
Votes Against: 4

Disposition: **Amendment is DEFEATED**

Discussion:

Legislator Roberts advised the members that he would support the change with the option of making additional amendments, because the change required two readings, if the event that issues are expressed with the proposal. Chairman Donaldson called for a vote on the Resolution as presented.

Voting In Favor: Legislators Bartels, Donaldson, Heppner, Roberts & Rodriguez
Voting Against: Legislator Ronk
Votes in Favor: 5
Votes Against: 1
Disposition: **Resolution ADOPTED**

Chairman Donaldson moved on to Old Business on the agenda.

Resolution No. 212 of 2018: Setting A Public Hearing On Proposed Local Law No. 16 Of 2018, A Local Law Regarding Campaign Finance Reform in Ulster County, To Be Held On Tuesday, March 12, 2019 At 6:00 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, March 12, 2019 at 6:00 PM to allow the public to offer comments on Proposed Local Law Number 16 of 2018.

Resolution No. 361 of 2018: Setting A Public Hearing On Proposed Local Law No. 21 Of 2018, A Local Law Regarding Campaign Finance Reform in Ulster County, To Be Held On Tuesday, March 12, 2019 At 6:00 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, March 12, 2019 at 6:00 PM to allow the public to offer comments on Proposed Local Law Number 21 of 2018.

Discussion:

Legislators Rodriguez and Ronk both stated that they believed a subcommittee was supposed to be formed to consider the two competing laws. Chairwoman Bartels said she thought the sponsors had agreed to withdraw their laws and allow a subcommittee or some legislative group to come up with compromise legislation. Legislator Ronk stated that a joint committee of Ways & Means and Laws & Rules may be appropriate as the biggest concern in his caucus is the financing component.

Chairman Donaldson commented that a previous subcommittee was responsible for the creation of the law he sponsored. Legislator Nolan expressed her hesitation to have her proposed law considered by a subcommittee of the Laws & Rules Committee as the competing law is authored by the Chair of the Laws & Rules Committee. The members discussed a number of options for a group to consider and craft a compromise law. Chairwoman Bartels advised the members that Legislators Heppner and Ronk worked well together in the drafting of the Human Rights Law and expressed her confidence in them to work through the two Campaign Finance proposals. Chairman Donaldson

appointed Majority Leader Heppner to Chair the subcommittee with Minority Leader Ronk and Legislator Rodriguez also serving as members.

Motion No. 10: **Motion to POSTPONE Resolution Nos. 212 of 2018 and 361 of 2018**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Heppner

Discussion: None

Voting In Favor: Legislators Bartels, Donaldson, Heppner, Roberts, Rodriguez & Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: **Resolutions POSTPONED**

Resolution No. 329: Adopting Proposed Local Law No. 13 Of 2018, Establishing The Ulster County Electrical Licensing Board And Providing For The Qualifications, Examination, Licensing And Regulation Of Electricians In Ulster County, New York

Resolution Summary: This Resolution adopts Proposed Local Law No. 13 Of 2018.

Legislator Rodriguez advised the members that he has repeatedly asked the Executive's Office for their thoughts on costs and logistics of facilitating the law, but has not heard back yet. He added that he was open to waiting until a new County Executive is elected next month in order to get his thoughts on the measure.

Motion No. 11: **Motion to POSTPONE Resolution No. 329 of 2018**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Heppner

Discussion: None

Voting In Favor: Legislators Bartels, Donaldson, Heppner, Roberts, Rodriguez & Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: **Resolution POSTPONED**

Chairman Donaldson asked the members if there was any new or old business. Legislator Roberts asked Chairman Donaldson if there were any updates on proposed language to amend the Charter section regarding Special Elections to fill vacancies in the offices of County Executive. Chairman Donaldson advised the members that he had spoken with Legislative Counsel Ragucci about drafting language and asked legislative Counsel Gordon if he had spoken to Mr. Ragucci. Mr. Gordon responded that he was going to meet with Mr. Ragucci the next day. Minority Counsel Pascale stated that he had sent an initial memo to Legislative Counselors Gordon and Ragucci and expected to get

together with them to work on language. Chairman Donaldson advised the members that the sense of the body was to fill a vacancy at the next General Election. Chairwoman Bartels asked Counsel if it was their intention to address the filling of vacancies in the Legislature as well as the Office of Executive. Chairman Donaldson responded that they were instructed to look at the Legislature as well as the Executive. Legislator Ronk advised the members and Counsel to keep in mind petition filing deadlines when crafting language. Chairman Donaldson stated that Counsel was aware of the concern of having an Acting Executive for more than a year.

Legislator Roberts asked if the members would entertain a later start time for the committee's meetings. Chairman Donaldson advised the members that the committee used to meet at 6:30 PM. The members discussed possible changes to committee meeting times and agreed to begin meetings at 6:30 PM for the remainder of the year.

Chairman Donaldson asked the members if there was any other business, and hearing none;

Adjournment

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Heppner
No. of Votes in Favor: 6
No. of Votes Against: 0

TIME: 7:22 PM

Respectfully submitted: Jay Mahler, Deputy Clerk
Minutes Approved: April 15, 2019

Comparison Between Orange County Ethics Law and Ulster County Proposed Local Law No. 23 of 2018

1. The term “Ulster” has been substituted for “Orange” throughout as appropriate;
2. Positions have been renamed to suit Ulster County where indicated, i.e. Personnel Director rather than Commissioner, and all references to Orange County laws have been replaced with proper references to Ulster County Laws;
3. All footnotes present in the Orange County Law have been redacted. Many of these refer to a “Grand Jury Report” not applicable to the Ulster County Law. Others are duplicate definitions found in State Law or inapplicable Orange County Laws. There are also statements of legislative intent in these footnotes and consideration could be given to including them if the intent is the same.
4. The definition of “financial interest” at Section 2(K)(4) and Section (O)(3) has been changed from 5% to 10%, the latter of which is consistent with New York State Law (See, Public Officers Law 73(1)(l)(i)). The law can, of course, depart from State Law, so this is not a mandatory change but is included for consistency only.
5. Note Section 2(P) of the Ulster Law has an extra “2” at the end of the sentence (this was probably a deleted footnote).
6. Note there is an extra line break at Section 4 of the Ulster Law.
7. Section 5(A)(1) differs in the manner of appointment. While the Orange County Law has three members being nominated by the Executive and three by the Chairperson of the Legislature, with the seventh nominated by the Board of Ethics itself, the proposed Ulster Law splits the Legislative appointments at one each to the Chairperson, the Majority Leader and the Minority Leader.
8. Section 5(A)(7)(b) prohibits Legislative Counsel and Minority Counsel from serving as outside counsel to the Board of Ethics. The Orange County Law only prohibits the County Attorney from so serving where a conflict exists. The County Attorney is the sole legal adviser Ulster County. The Charter functions of Legislative and Minority Counsel do not include advising non Legislative Boards. In addition, there will often be a conflict in such Counsel advising the Board as in the case of legislators answering complaints.
9. Section 5(B) and 5(B)(1) includes a “prospective County officer or employee” within the scope of persons able to seek an Advisory opinion. The Orange County Law limits this to “existing officers or employees.” Since the law also applies to non County officers or employees, i.e. County Political Party Officers, consideration might be given to permitting anyone subject to the law to seek an advisory opinion.
10. It should be noted that Section 5(A)(5) refers to “Regulations for Adjudicatory Proceedings” – such were adopted by Orange County in their local law 2 of 1994 and in the Appendix to their Ethics Law. If Ulster County has no such regulations, note that same would need to be adopted to implement this law (and it is contemplated that same would be adopted in Appendix “C”. Appendices A-D are referenced throughout the Law and I believe that the Clerk has drafted the Appendices for symmetry with Ulster County titles and terms (or is in the process of doing so)).
11. Section 6(C) uses the term “party” instead of “complainant”, however, on further review, the term “complainant” should be used so as to be consistent with the County Attorney’s obligations to defend County Officers. A suggested change would be to add the phrase “or any other County officer or employee, acting in the course of their official duties” after the phrase in the first sentence of that clause which reads “in any litigation in which the County” as this would be more consistent with the intent of the section.

Comparison Between Orange County Ethics Law and Ulster County Proposed Local Law No. 23 of 2018

12. Section 6(C) allows for waiver of a conflict that might be identified under this section in accord with the New York Professional Rules of Conduct. This is for the simple reason that not all conflicts are irreconcilable and some can be waived in accord with the Rules, for example on consent after full disclosure.
13. Section 6(D) is amended to include an exception for appearances before Ulster County Courts. This exemption is probably implicit in the section as it does not appear intended to apply to Court appearances as Court's are independent entities but this makes the exemption express.
14. Section 6(N) in the Ulster Law (same number in the Orange Law) is omitted. This provision has to do with use of the Official Name, Seal and Authority of the County of Orange and refers to local law No. 11 of 1999 of Orange County. It does not appear Ulster has a corresponding Local Law so this was omitted.
15. Section 8(J) has a different effective year, but even this might need to be changed to 2020 in the Ulster Law.