

**Laws, Rules & Government Services Committee
Special Meeting Minutes**

DATE & TIME: February 24, 2022 – 5:00 PM
LOCATION: Powered by Zoom Meetings, Meeting ID: 863 1102 9550
By Phone (646) 558-8656
PRESIDING OFFICER: Chairman Heppner
LEGISLATIVE STAFF: Jay Mahler, Deputy Clerk
PRESENT: Legislators Gavaris, Levine, Roberts and Ronk (arrived 5:11 PM)
ABSENT: None
QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Erner & Uchitelle, Legislative Counsels Ragucci & Gordon, Minority Counsel Pascale, Deputy County Executives Contreras & Rider, Comptroller Gallagher – UC Comptroller’s Office, Mr. Williams – UC Attorney’s Office

Chairman Heppner called the meeting to order at 5:04 PM

Discussion

Proposed Local Law No. 2 Of 2022 – A Local Law Amending The Charter Of The County Of Ulster, Amending The Administrative Code, Repealing Chapter 44, Ethics And Disclosure, Of The Code Of The County Of Ulster, And Establishing The “Ulster County Ethics Law”

Motion No. 1: **MOVED PROPOSED LOCAL LAW NO. 2 OF 2022 FOR DISCUSSION**
Motion By: Legislator Roberts
Motion Seconded By: Legislator Gavaris

Discussion: The members discussed remaining flagged discussion points including definitions, Ethics Board appointments process and term dates and length of service, prohibition of certain counsel to offer opinions/assistance, bidding on county property, process to notify candidates for elective office of responsibility under the law, and amendments to Appendices A-C. See attached transcript

Chairman Heppner asked if there was any other business. See attached transcript.

Adjournment

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

No. of Votes in Favor: 5
No. of Votes Against: 0

TIME: 6:07 PM

Respectfully submitted: Deputy Clerk Mahler
Minutes Approved: March 10, 2022

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Chairman Heppner called the meeting to order at 5:04 PM

Chairman Heppner

As long as the email's out, yeah.

Deputy Clerk Mahler

Alright, so, Chair Heppner

Chairman Heppner

Here.

Deputy Clerk Mahler

Deputy Chair Roberts

Legislator Roberts

I am here.

Deputy Clerk Mahler

Legislator Gavaris

Legislator Gavaris

Present

Deputy Clerk Mahler

Legislator Levine

Legislator Levine

Here

Deputy Clerk Mahler

and Legislator Ronk. you have four members present one absent.

Chairman Heppner

Okay. Can I have a motion for discussion on proposed local law number two of 2022

Legislator Roberts

Make that motion Mr. Chair

Chairman Heppner

Good. motion made by Legislator Roberts, seconded by Gavaris. Alright, so we'll get started. In your packets we have proposed the PDF that's titled proposed local law number two of 2022 ethics law with flags, all caps. So that is where the most recent version that includes the flags and red lines that we were still discussing. As of the end of December. Please be patient with me. You know, this was Tracey's role. Now Chair Bartels. So these are, especially this kind of stuff, are big shoes to fill. So don't hesitate to step in if you know I've forgot something, or I'm missing something.

And as we get going, so I'm going to ask the Clerk Mahler, can you share your screen just so everyone also can follow that way? And we'll just go we know there's not that much left. There's just a few. Some of them are just a little bit more intricate than others. But hopefully we can come to a consensus and cross more off and then go into the other appendices. So not that one. But, that's Appendix B. The flagged local law. All right, cool. So let's go to our first flag. This is on page three of the actual public law. And this is the county's attorney's office has previously expressed concerns that language does not expressly prohibit bribes. Members of the previous laws and rules committee as well as I believe both majority and legislative minority counsel disagreed with the concern as bribes are prohibited by penal law that already exists.

Legislator Roberts

Mr. Chair,

Chairman Heppner

Yeah, please go ahead. And again, with it up, it's hard to see so just kind of speak out. I just everyone be civil.

Legislator Roberts

Thank you, um, with this flag here and the remaining flags, do you want to talk about them as we go along? Or do you want

Chairman Heppner

I think we take, take them one by one, because there's not that many. Let's see if we can, we can alleviate them.

Legislator Roberts

I think we should ignore this flag.

Chairman Heppner

Yep, I think we can. I'm good with it. If the rest of the committee is good with it. We can we can cross this flag out.

Legislator Gavaris

Yeah we can eliminate it

Chairman Heppner

Legislator Levine, you good?

Legislator Levine

Yes

Chairman Heppner

Okie doke. So let's strike that Clerk Mahler. All right, going on page three, but it goes into page four, Section K, titled immediate family member slash member of household. There was a definition previously suggested from Legislator Gavaris. To replace the current definition. The definition proposed by Legislator Gavaris is on the top of page four. I don't know Legislator Gavaris, if you've heard my thoughts on this, or if anyone would like to discuss that definition.

Legislator Gavaris

I don't know about anything new, but there is something that ties back into this that another flag for later on, under sibling so if we do agree to this change, we have to tie with the other one down the line.

Chairman Heppner

My one concern with this language was the term when I was going through it the other day was a note to the second sentence. Alternatively, a de facto relative may be an individual or who has simply developed a relative like bond. I just think that we might be getting a little bit broad on that one.

Legislator Gavaris

This This was actually taken from something in the federal level. This was not me creating this from scratch. This was almost a copy and paste. And it was to address situations where you have you know, the adopted parent who's really not a parent, they're not legal In in that sense, you know, there could be a cohabitation setting in a house where the couple are not married. But for all intents and purposes that that male figure is the child's father. And, you know

Chairman Heppner

I see what you're saying. Any other members of the committee have any thoughts or comments on this?

Legislator Roberts

Jonathan,

Chairman Heppner

Yeah, please go ahead.

Legislator Roberts

Are we going to get to the point in the future, where possible, we're going to have to come back and define this or somebody else is going to have to define this.

Chairman Heppner

I would ask that of counsel.

Legislator Gavaris

Just as a point of order, this is a definition.

Chairman Heppner

Right

Legislative Counsel Ragucci

We are in the definitional section.

Legislator Roberts

Yeah, I understand what you're saying. But it's very broad. I mean, what's the definition of somebody? Who's to say they developed a relative like bond? You know, is that our opinion? Is that their opinion? Is that just the way it is?

Legislative Counsel Ragucci

Can I speak on this Mr. Cahir?

Chairman Heppner

Yeah, please go ahead Chris.

Legislative Counsel Ragucci

I tend to agree with Legislator Roberts, I certainly understand the intent of the definition. But from a legal perspective, it's incredibly broad and very difficult to have any kind of real understanding, at least in my opinion, from the way I read it. As to what, where the line is drawn, I guess. As it's written.

Legislator Gavaris

There I just said that I think the last sentence there was, is there on purpose, because it actually ties it in. I think that's sort of the litmus test there.

Chairman Heppner

Mm hmm. Councillor Gordon, do you have your hand raised?

Legislative Counsel Gordon

Yeah. I have a couple of thoughts on this. And

Chairman Heppner

Sure. Please go ahead.

Legislative Counsel Gordon

Can you hear me?

Chairman Heppner

Yep.

Legislative Counsel Gordon

Okay, the first, the most, there's actually a word here that we're not focusing on, which is quite important. And that's the word include. The word include itself is ambiguous, because the way I think it was meant, which is one way to, to, to interpret it is that it is the word there means this is what is included and nothing else is included. That's what the intention is here, I think. But it doesn't necessarily mean that it grows, could be very often it means something that's called without limitation. So it includes these and then goes to somewhere else. And what I would suggest is maybe a two part thing here, certain people are automatically included, siblings, parents, children, including adoptive children, etc. And then, given the concern that that that, that this amendment or that Legislator Gavaris' suggestion would be, there are other people who we wouldn't want to include categorically but you know, could provide a very significant conflict of interest. And that could be a question of fact, for the ethics board as it comes up. And so what you might say, as an example, I'm just I'm just throwing this out, I'm just throwing this out. If whatever you guys want to do is you say shall include, without limitation, a spouse, etc. Anybody who's not in this defined category would be a matter of fact, that would be required to be proven before the Ethics Committee.

Chairman Heppner

Thoughts on that?

Minority Counsel Pascale

Yes, Chair Heppner

Chairman Heppner

yeah, please go ahead, counsel.

Minority Counsel Pascale

Yeah, just you know, from a bird's eye view perspective, an important thing or quality for legislation like this to have is it should be as plain as possible, as predictable as possible. So that a lay person that's reading it would have a good sense as to what the parameters of it are, right?

Chairman Heppner

Totally agree

Minority Counsel Pascale

And so the existing language kind of does that because it says, it includes a spouse, well, we know what a spouse is, right? It includes an unemancipated child, a person claimed on on a return, well, that's very easily verifiable. Once you start getting into definitions that include maybe like a mentor or a best friend or what have you, it's, it becomes very gray and hard to interpret and apply. So I think just for clarity sake, and for predictability sake, for persons that are laypersons that are referring to this, I think you want to err on the side of specificity. And I think, you know, that's that's what the existing language does that. That's just kind of my and I think maybe that's what Legislator Roberts was getting at is, you know, Are we going to need any advisory opinion to interpret this language? And you probably would. So that would be my suggestion would be to err on the side of specificity.

Chairman Heppner

Any other comments from members of the committee or those joining us?

Legislative Counsel Ragucci

If I could just make a note? Chair?

Chairman Heppner

Yep.

Legislative Counsel Ragucci

Sure. I tend to agree with minority counsel with respect to the clarity, comment, and we could even reference a tax dependent status. I don't know if he mentioned that, or degrees of relationship, you know, meaning father, you know, son, step son, you know, we could even cite that, but I think it has to be clear here or else, it's just too broad of a brush to leave out there open for interpretation, it would really just cause problems, I think if it's not clear.

Chairman Heppner

Thank you, Legislator Gavaris. So I think I saw you go off mute.

Legislator Gavaris

Yeah. So I mean, it doesn't seem like there's any real interest in moving forward so we can take it out. I just just the reason why this got brought up in the first place, is even through our own Legislators, we have this kind of scenario where there's a cohabitation arrangement. But no, legal. There's no There's no marriage license, there's nothing in I just see, you know, situations where that could be a potential for somebody to skirt the ethics law, when they wouldn't be considered if we go with the strict definition of immediate family members.

Chairman Heppner

Legislator Ronk,

Legislator Ronk

thanks. I'm sorry, I came into this a little bit late.

Chairman Heppner

No, of course

Legislator Ronk

But I I like the first sentence in Legislator Gavaris', you know, suggested, you know, language, I think that the second two are what Counsel on on both sides has raised, you know, both counselor Ragucci and and minority Counsel? Um, you know, I feel like I would be comfortable with the first sentence ending with the word person. I feel like that. I feel like that's specific enough for me, if we were going to move forward on it.

Legislator Gavaris

I could live with that.

Legislator Ronk

I don't know what everyone else's thoughts are, that's that [inaudible]

Chairman Heppner

Where is that? Can you show everyone where to put that, to plug that in, Jay?

Legislator Levine

The Clerk just highlighted it

Chairman Heppner

No, I know, I'm saying to put into the actual definition as. I'm good with that if counsel is good with it.

Legislative Counsel Ragucci

No objection.

Chairman Heppner

Any objection from any committee members or comments from other folks that have joined us?

Legislator Ronk

I mean, I just think that Legislator Gavaris makes a good point that, you know

Chairman Heppner

yeah, yeah I definitely see the point he's making. So I think I think that's a strong suggestion. I definitely hadn't seen that. So if everyone's in favor, we can cross this flag off the list and move on. Any opposed? [inaudible] Well, we've knocked two off so far, folks, let's keep going

Legislator Gavaris

I think Legislator Erner had his hand up.

Chairman Heppner

Legislator Erner, please go ahead.

Legislator Erner

Well, just in the spirit of the last part of the conversation, when we say basic needs or regular care, is that going to also need an interpretation?

Legislator Ronk

Probably.

Chairman Heppner

Yeah, it may. But, I think that's more [inaudible]

Legislator Ronk

Sorry.

Chairman Heppner

Go ahead Ken

Legislator Ronk

I was gonna say that it's the purpose of advisory opinions is that you can't you can't button up every eventuality. So you have to, you know, have certain areas where you leave it open to interpretation, and that's why we have the ethics board's ability to give advisory opinions. And we're gonna have some conversation later on, you know, language to clear up a current advisory opinion that I'm going to have some comments on, so yeah

Chairman Heppner

And I think per what counsel said, this is, you know, for the, you know, the non legal person reading this, I think, you know, definitely is more a little bit more understandable to where it's still fine for them that they might need to get an advisory opinion and be understandable to them.

Comptroller March Gallagher

Chairman Heppner, if I could just note, I see that like, other than Clerk Mahler, I'm the only woman here I don't have a vote. And I just want to point out that caring, you know, a lot of the caring for basic needs is done by women. Um, so I just want to say that I think you guys are being incredibly sensitive about that the whole thing. But as a woman who lives with a partner for 18 years that I'm not married to, I feel like the onus is on me to identify the conflicts that may arise. And, and I agree, and an advisory opinion could be solved. But I did just want to mention that for the record, I think it's a little it's unfortunate that laws and rules does not have a female Legislator.

Legislator Ronk

Well, that's up to the female Chair of the Legislature there in March. So, just throwing that out there.

Chairman Heppner

Can we go back to the shared screen?

Deputy Clerk Mahler

So I'm clearly the only one who lost internet.

Chairman Heppner

You are

Deputy Clerk Mahler

So I'm going to make Chair Heppner, the co Chair of this meeting. And

Legislator Ronk

it defaulted to the assistant county attorney which was funny

Deputy Clerk Mahler

Thank you, Mr. Williams. Are you back in business?

Legislator Ronk

Back in business,

Deputy Clerk Mahler

Okay

Chairman Heppner

Yep.

Legislator Ronk

Glad you're back Jay. Cuz that we brought the number of women on the zoom up to two now.

Chairman Heppner

Counsel, so yeah, so you can you can go ahead and cross out that the flag on page four

Deputy Clerk Mahler

and we're leaving this as a, the addition here?

Chairman Heppner

Yep. Just add a period after [inaudible]

Legislative Counsel Ragucci

The period. that was that was my only comment.

Chairman Heppner

Then you can

Legislator Levine

we strive for grammatic clarity.

Chairman Heppner

Yeah. Okay, and then going on this was a question does the language provide a loophole for one or few employees has the addition of any slash all of the above resolved a potential problem? I believe this was a flag from Chair Bartels at the time I mean, council any would include any or all correct?

Legislative Counsel Ragucci

Correct

Minority Counsel Pascale

Yes.

Chairman Heppner

We can just say the benefit of any county

Legislative Counsel Ragucci

any, yeah, any includes all

Chairman Heppner

Yep. The phrase any includes all I'm comfortable with that if the rest of the members are? So unless there any other comments or concerns from other participants

Legislator Ronk

I'm in favor of moving on

Chairman Heppner

So, let's move on

Legislator Levine

No, no objection

Chairman Heppner

Six this had been put in after last time we went over this in December the previous committee. At our request this language was added means any brothers sister half brother or half sister stepbrother, stepsister, and, and equivalently related non binary persons, I think we can just say and related non binary binary persons.

Legislator Ronk

Ah, you don't like the word equivalently?

Legislator Ronk

I just don't think it's necessary unless you disagree. I don't know, not [inaudible]. I'm just glad we have the language in so, as long as your

Legislator Ronk

brother or sister half brother, half sister, stepbrother, stepsister, I think the I don't know. I mean, I'll lean on the attorneys. I feel like equivalently needs to be there. Because that if you don't include the word equivalently then,

Chairman Heppner

yeah, you're saying between biological, half, step so

Legislator Ronk

I mean, I just think that, you know, any related person would then qualify any.

Chairman Heppner

Okay, I'm good with it. I'm convinced Clerk or a Counselor Ragucci?

Legislative Counsel Ragucci

Would would it make better sense and more more grammatical sense to change and or

Legislator Ronk

binary If you've got a nephew that's non binary? At that point, it just says related

Chairman Heppner

Yeah, it should say, or, yeah, change the and to or I think

Legislator Gavaris

Chair Heppner. This was what

Legislator Levine

I agree

Legislator Gavaris

I was referring to earlier. Um, is it can and this is a question for counsel. Is this even necessary, really, because the only place sibling is mentioned is in the definition now of de facto relative. And it's used as an example. It's not necessarily the definition. The word sibling doesn't appear anywhere else in our ethics law. It just links back to the definition under de facto relative

Legislative Counsel Ragucci

The question is, is it necessary

Chairman Heppner

to define, to even defined sibling?

Legislator Gavaris

Yeah, because it's not it. There's nowhere in the law itself, I did a search and that doesn't exist anywhere except for in the the tagged part for under de facto, it says de facto relative parentheses parent, child, sibling, etc, then close parentheses. So

Legislative Counsel Ragucci

But isn't it? My understanding is it is listed in one of the appendices. I don't know if it's the the disclosure form or one of the other appendices

Legislator Gavaris

that could be I didn't check that. But I will do that

Deputy Clerk Mahler

I've just checked the disclosure form and did not find it.

Legislative Counsel Ragucci

I remember seeing it that I just remember seeing it in one of the appendices, but I'm happy to double check. And if it's not you can take it out for sure.

Legislator Gavaris

I'll search in the meantime, we can move on, but I'll search.

Comptroller March Gallagher

One of the benefits of naming of defining sibling is that it makes it clear that it does include step siblings, and I think, um, you know,

Chairman Heppner

that's a good point.

Comptroller March Gallagher

If you just say sibling, it's not necessarily considered step.

Chairman Heppner

Yep. So. So as the language currently reads, are there any objections? Otherwise, we're good and can move on?

Legislator Levine

No objection.

Chairman Heppner

All right, let's take away that flag and move on to the next. Alright Section 4 the board of ethics. Obviously, the flag is that the executive's office position is that the exec has the sole authority to appoint candidates. We've obviously discussed this extensively. Counsel, if you want to just give a review for the new folks on why we feel comfortable in this position.

Legislative Counsel Ragucci

Sure, and if I could just do a little historical context that the original draft of this law, I believe was or this section was borrowed from the Orange County ethics law. And it was artfully drafted, I think, by our minority counsel in the original draft, and then it's subsequently been amended in Orange County, as they have a very similar appointment process, as we've set up in this provision. My understanding is that has not been successfully challenged at this point. And certainly, there's been no finding that that violates state law. And I have not found a decision that would find that this would violate state law.

Chairman Heppner

Anyone else? Seeing, no one else has any issues on that flag or comments, I believe we can remove that flag and move on. Then, the next one is actually Legislator Uchitelle is with us today had noted that there was nothing in the law that requires members to wait until all six appointments are made before appointing the, excuse me, appointing the seventh member. I believe that's, I mean, that doesn't seem like it'd be something that would be hard to fix in terms. I mean, can we just say,

Legislator Ronk

I think that wasn't I, if I remember correctly, his point about nothing, noting nothing that requires the members to wait for all six appointments, is if you know, if was that if we didn't make our appointments fast enough, the executives appointments could then appoint the seventh by a majority vote. Was that his concern?

Chairman Heppner

I believe so. Legislator Uchitelle

Legislator Uchitelle

Yes, that's right. Yeah. Yeah. Basically, that the that, you know, a quorum once you once you have reached a quorum threshold, you know, in any sense, you could appoint the last person. And this might be resolved by the fact that the appointment of the last person wouldn't diminish the ability of the other, you know, parties to appoint their people. And once they do, if the balance of power changes, that last seat could be, you know, replaced because the voting balance has now changed.

Legislator Ronk

Is the goal is the goal to ensure that all six appointments are made before the seventh?

Legislator Uchitelle

No, the goal is to ensure that the body can't act in a lopsided way without the without being vested in the manner that's laid out here.

Legislator Ronk

I mean, we could we could then say that, you know, the, the Board may not appoint the seventh member until the previous until all six members are appointed. I mean,

Chairman Heppner

we could say and one of whom shall be nominated by the board of ethics once all six members are seated.

Legislator Ronk

Yeah.

Legislator Uchitelle

Yeah, and it would certainly incentivize keeping the board full because the board itself would be asking for those appointments so that they can further fill their ranks, which I think is

Chairman Heppner

right there

Legislator Uchitelle

something that we've we've run into with with seats being left open.

Chairman Heppner

So do you see what that is Jay? kind of right in the middle and one of whom shall be nominated by the board of ethics

Legislator Uchitelle

contingent upon

Chairman Heppner

once all six members have been seated. Right. Does that satisfy folks?

Legislator Gavaris

Yes

Legislator Ronk

it works for me.

Legislator Ronk

Works for you, Legislator Uchitelle? I thought I saw your hand up

Legislator Uchitelle

Yeah, that sounds, that sounds great.

Chairman Heppner

Okay, cool. Any objections or concerns? Seeing none, let's get rid of this flag and move on. Okay, we're now on page eight of the actual law. A local law title Ulster County ethics law, the flag was concerned expressed that the requirement to appoint an elected official may limit options for employment if when the stipulation is not already satisfied.

Deputy Clerk Mahler

So, uh just to interrupt. When we delete flags, what I sent you all and what you're all referencing, our page numbers are going to get wonky. So we're on eight on the screen, but it was on seven for in your email.

Chairman Heppner

Thank you

Deputy Clerk Mahler

So if you're following online, um, Chair Heppner has the accurate page number, but if you're following on the email I sent you, you're just gonna need to like continue to scroll.

Chairman Heppner

Thank you. And again, so this flag was concerned expressed that the requirement to appoint an elected official may limit options for appointment if when that stipulation is not already satisfied.

Legislator Ronk

So this the concern, I think, was that, um, you know, a appointing authority, you know, being the Chair, the Minority Leader, that the executive may be pigeonholed into appointing a elected official if, you know, that's the only option that they have, because there's no other elected official. Or employee. I'm, I'm comfortable with it. It wasn't a concern I had.

Chairman Heppner

Yeah, I think unfortunately, that you know, that's just the reality. I mean personally, I feel like that's actually one of the easiest will probably be one would be one of the easiest positions to fill.

Legislator Ronk

Yep

Chairman Heppner

Just an honesty. But I don't have any strong concerns at this point. There's nothing, also nothing saying that there can't be two elected officials on it right?

Legislator Ronk

No, it just says at least one.

Chairman Heppner

Yeah. So if, you know, my the minority and the Chair both have an elected official they want to appoint they can both appoint that elected official.

Legislator Ronk

Um, so the next flag as I saw, unless we're going to continue on that?

Chairman Heppner

I think let's move on.

Legislator Ronk

Um, so this one, I believe, was that one of the Chairs concerns? Um, I don't

Chairman Heppner

You're correct. It was

Legislator Ronk

I don't have I don't have the concern, because like every other board, there's holdover provisions.

Chairman Heppner

Yeah, this one isn't high on my concern list.

Legislator Ronk

Almost all of our boards boards expire December 31.

Chairman Heppner

I have no issue leaving it at as as, unless anyone else does?

Legislator Ronk

Kev

Legislator Roberts

Yeah, Jonathan. Mr. Chair. I'm just looking at the five year terms. You know, I don't know if we talked about this last year or not, but five years term is seems kind of long for this position. Specifically, since they're being appointed by specific members of us and coutny executive. The county executive has a four year term. Minority Leader, majority leader and the Chair, you know, that's a two year term. I mean, we're saddling future governments with the five year, you know, five year appointment. I mean, I think, you know, I don't want to reinvent this whole thing now. But I think three years would be long enough.

Chairman Heppner

I think we had discussed, you didn't see what was bolded, I believe was discussed. If we go back, the member nominated by the majority serve for three years,

Legislator Roberts

like I said, if everybody's good with five

Legislator Ronk

I agree.

Chairman Heppner

Yeah. How we're staggering it. Yeah, that's

Legislator Roberts

That's just the staggering part. But after the staggering is over, we're still stuck with five years. And if everybody's good with five years, I'm good. I'm just bringing it up, it kind of concerns me at this point.

Legislator Ronk

I, I understand where you're coming from, and I'd prefer, you know, a shorter term, but, you know, I just feel like for for the purposes of staggering, I think that that that's how we ended up at five.

Chairman Heppner

That's how I remember the conversation,

Legislator Roberts

okay.

Chairman Heppner

Any other comments or issues? Alright, with that, let's take out that flag and move on.

Legislator Ronk

We're burning through it, I love it.

Chairman Heppner

Flag. Add language to explicitly permit the county attorney provide assistance. So currently, it clearly states that the Board of ethics may engage outside counsel as necessary, and as provided for within the designated budget appropriations, but that legislative counsel and minority counsel may not serve as such outside counsel.

Legislator Ronk

I don't particularly want the county attorney to provide assistance. the county attorneys appointed by the county executive, you know, I'd prefer that they get outside counsel personally,

Chairman Heppner

personally, in the way I look at this, if we're really trying to have a true independent ethics board, I see no reason why the county attorney wouldn't be included with legislative and minority counsel. If what we're really trying to achieve his independence.

Legislator Ronk

Yeah. I agree.

Chairman Heppner

And if that means we do have to provide some additional funding in that budget line I think it's for a worthy cause for the sake of the public, and you know, and county government

Legislator Ronk

agreed.

Chairman Heppner

One sec, Jay is just making the notes. Does anyone else have any, in the meantime? Does anyone else have any comments or concerns on that one?

Chairman Heppner

All right, seeing none with those changes, we'll move on. I think this is where we have a nice flow of no flags. Cuz I believe that total, we're at, we were at 33, we might be down to 32 pages now.

Deputy Clerk Mahler

This is 16 here and in your packets, it's on 17.

Chairman Heppner

This is Part B recusal by officers and employees. This is a, what we left in December as a quote unquote small flag. To require some sort of notification of recusal to supervisor. And then it had been requested for the language as reads in the employee, the employee code of conduct for recusal language, and that reads, quote, not allow any competing personnel or professional interest to influence decision or actions taken on behalf of the County. I don't remember this flag as well. I don't know if anyone else has any additional information.

Legislator Ronk

On the small flag?

Chairman Heppner

Yep.

Legislator Ronk

I believe that this was Comptroller Gallagher brought up and said that if one of her employees needed to recuse she would want notification

Comptroller March Gallagher

True. but feel free to ignore it. I'm fine. I have my own internal set of requirements so I can impose that requirement.

Legislator Ronk

I think it's I think it's better off personally with you know, internal office, you know, reporting these rather than to put it into the into the law itself.

Chairman Heppner

I don't disagree. And if you're comfortable controller Gallagher, then I think we can move on unless there's any other objections from committee members. And with that, let's move on. Keep going

Deputy Clerk Mahler

this is 23 in the email packet, 22 here

Chairman Heppner

I believe, so this is Section K or sorry Section L. Currently it's bidding by officers or employees on county owned real property acquired by tax sale. This in the notice that this section was stricken with a note that counsel would review to ensure that there are no conflicts with negotiating contracts GML and Public Officers Law Section 74. Per the Comptroller. Counsel, have you had the ability to review and discuss with counsel Pascale?

Legislative Counsel Ragucci

I have reviewed, I haven't discussed with counsel Pascale, but I can just know generally what the law says. And he obviously can contribute, if he seems if he deems it appropriate. Section 801 of the GML. You know, as articulated and interpreted by certain opinions and cases that I've found, specifically prohibits officers from bidding on property acquired from tax, you know, through the tax sale process. There's a case rose v Icore, which I found which specifically identified this issue. And it seemed pretty clear to me that it is prohibited.

Chairman Heppner

Okay, so if so, with that if it were stricken? We would also I think we had talked about there would be no need for this in Appendix D, which we haven't gotten to but

Legislator Ronk

I'm comfortable with that.

Chairman Heppner

Any other objection?

Legislator Gavaris

Counsel said no, but I would like to, Counselor Ragucci if you could forward on that information. Because this just seems it doesn't track with the same logic as other situations which we're currently myself and Chair Bartels are facing? It's almost in the same. It's the same logic. So I just don't get it.

Legislative Counsel Ragucci

Sure. I'm happy to forward that decision.

Legislator Gavaris

Thank you.

Chairman Heppner

Any other any issues on this actual section?

Deputy Clerk Mahler

So to be clear, Section L is remaining stricken? That's the the opinion of counsel.

Legislative Counsel Ragucci

Right, we county officers and employees are not permitted to acquire property from the tax sale process at the county

Chairman Heppner

so with that no objections we can move on. What page are we on?

Deputy Clerk Mahler

we are on 24 here, 25 in the Email packet.

Chairman Heppner

This is Section C, any person who shall become a candidate for the office of elected official of Ulster County this is, the disclosure form shall be filed by the candidate within seven days after the filing of the nominating petitions of said candidate. the flag was how does this happen? Because as we all know, as folks that have gone through this process, we've never received that envelope in the mail. As if in you know, I've thought about this, I've asked some questions to see how it you know, on the state level candidates are obligated to do this. But it's facilitated by JCOPE. JCOPE personally sends out those packets.

So essentially, the way it would be facilitated if we were actually going to do it would be it would essentially be the ethics board who would be responsible for sending them out. currently, they're just dispersed, you know, personnel sends them to the Clerk of the Legislature, the Clerk of the Legislature distributes them to us. I'm sure they send them to to you Clerk, Comptroller. And then then once they're all collected, they go to the ethics board for review. So this is a very interesting situation. I don't really know how we want to try and facilitate? if anyone has any ideas if because it also though if we're not doing it and we just relying on, you know, obviously, we've all we all file our forms annually, you know, as elected officials, but obviously it's not happening as candidates. So I'm curious what all of your thoughts would be on this?

Legislator Ronk

I mean, you know, the personnel office already sends him out I maybe we maybe we just say that form shall be distributed by the personnel, by the Ulster County personnel office.

Chairman Heppner

Mmm, hmm

Legislator Ronk

Or, or we could, you know, say the form shall be posted conspicuously on the county website, and then it's up to the candidate to do it.

Chairman Heppner

That's not a bad idea, either. I mean, we could also leave that up to a personnel. I mean, I think personnel to do that either way. They just have personnel has to make the form available. Correct?

Legislator Ronk

I'm fine with that. I mean, I'm fine with either way. I mean,

Chairman Heppner

I think I mean, I think that's the cleanest way to do it.

Legislator Ronk

The the form shall be made available by the Ulster County Personnel Department. Yeah.

Comptroller March Gallagher

Does it make sense to make sure the Board of Elections knows I mean,

Chairman Heppner

so I don't believe on the state level the Board of Elections has anything to do with the process.

Comptroller March Gallagher

They're accepting the petitions. Right. So yeah,

Legislator Ronk

they [inaudible] go ahead,

Chairman Heppner

no, I believe that JCOPE distributes

Legislator Ronk

I think it's the LEC

Chairman Heppner

Yeah, yeah. But once the petitions are filed, then they respond. Well, we can I mean, we can notify the BOE but the BOE should, you know, be aware, you know

Legislator Ronk

I don't think, you know, we've discussed this. I don't think that we have the BOE distribute a financial form, though.

Chairman Heppner

Yeah, yeah. No, I agree. I think it should be. I think the cleanest way to do it is personnel. Just because they're already the ones organizing elsewhere. Unfortunately, it's just an added, you know, burden to them. But it's something that should be being done that hasn't been

Legislator Ronk

Yeah.

Chairman Heppner

Any person shall [inaudible]

Legislator Roberts

Mr. Chair

Legislator Ronk

Uh, John, Kevin's got something to say

Chairman Heppner

oh, yeah, please go ahead. And then Legislator Erner. Sorry, I was reading the thing.

Legislator Roberts

That's okay. I'm just wondering why we even need C? I mean, why does a candidate have to fill out a disclosure form when they haven't done it for any time in the past? What are we trying to prove?

Legislator Ronk

Isn't that in our current law?

Chairman Heppner

Mmm, hmmm

Legislator Roberts

But it hasn't been getting done.

Legislator Ronk

Well, doesn't mean we shouldn't.

Legislator Roberts

It doesn't mean we should either.

Legislator Ronk

I'm I'm pretty ambivalent. But what say everybody else?

Chairman Heppner

Legislator Erner. Do you ever hand raised?

Legislator Erner

Yeah, but if the committee wants to weigh in on the question first, I can wait.

Chairman Heppner

Is it on this question?

Legislator Erner

Well, it was on the general question of this item, but not on this specific question as to whether you're going to keep it in there now.

Chairman Heppner

Oh, please. Go ahead. Go ahead.

Legislator Erner

Okay, thank you. Just to come to the Comptroller's point, some kind of communication between Board of Elections either state or local and personnel just informing who is running and who would have this responsibility just for example, I ran for the first time and I didn't know I have this responsibility till just now.

Chairman Heppner

Neither did I, trust me

Legislator Roberts

neither did I

Legislator Ronk

I ran for the first time before the ethics law was adopted. So

Chairman Heppner

Now you're just aging yourself Ken.

Legislator Ronk

I am

Chairman Heppner

Any other thoughts from the committee? I mean, I lean more towards, go ahead Ken.

Legislator Ronk

I was gonna say that I mean, we could say um, ah, well, we have to clean up the language because I was just I was reading the first sentence and the second sentence don't make sense together yet. But, um, uh I would say that um, we could have the Board of Elections provide a list of candidates to the personnel office within seven days and then we could make the filing within 14 days.

Chairman Heppner

I'm good with that.

Legislator Levine

Mr. Chairman,

Chairman Heppner

Yeah, go ahead

Legislator Levine

the only the only potential question I would have is in regards to the political calendar, the timeline of petition filing for candidates on, you know, party lines is different than if somebody was going to run an independent campaign and file independent signatures. So maybe, maybe, you know, if it's listed, do we is it gonna be listed to have, you know, two separate times that the Board of Elections is going to have to report to personnel with a list of candidates because, you know, the first time that they send over the list of candidates to personnel, somebody who decides to file independent petitions as an independent candidate, probably wouldn't be on that list. So I don't know if we just wait until the entire petitioning process is over or do it twice?

Legislator Ronk

I

Chairman Heppner

You're on mute, Ken. Ken we can't hear you. Ken.

Legislator Ronk

Did you mute me on purpose?

Chairman Heppner

Yeah. Because for some reason, before, we couldn't hear you, and I was just trying to flag it for you. So you didn't waste energy that we couldn't hear you at all before. So now we can.

Legislator Ronk

How about now?

Chairman Heppner

Yeah, we can hear you.

Legislator Ronk

I was just saying that. You know, I was babbling and then Jay fixed it.

Legislator Ronk

So, you know, the the, you know, designating and or nominating petitions, I think fixes Legislator Levine's concern

Chairman Heppner

It's a good point.

Legislator Levine

Thank you.

Chairman Heppner

I'm comfortable with this. Does anyone else have any concerns?

Deputy Clerk Mahler

So you, do you want it to? You want to make the provision for the board of elections to provide personnel within the seven? Obviously, that's a note I'll make it English.

Legislator Ronk

Yep

Chairman Heppner

Yeah. Again, like it nowadays. It says it should be a very easy task. That's already, you know, it's something that's already created in a document that's literally just shareable.

Legislator Ronk

And with their new offices, it should make it all the all the easier. I haven't [inaudible]

Chairman Heppner

Moving, moving on. What else do we have here? We're getting, close.

Deputy Clerk Mahler

Counsel has his hand up. This next flag is page 27 here, 28 in the Email

Chairman Heppner

Counsel, go ahead.

Legislative Counsel Ragucci

And I hate to do this, but there is another proposed change that minority Counsel and I had discussed back on page 17. And it relates to the positioning of a coma. But it is actually a critical difference.

Legislator Ronk

Are you and minority counsel in opposition on the positioning of the coma?

Legislative Counsel Ragucci

As often is the case we are in harmony on this issue?

Legislator Ronk

So at that, at that point, I move that, you know, by unanimous consent, we accept the comma

Chairman Heppner

Please note to Jay where the coma moves forward and then you can tell Jay where the coma needs to be

Legislative Counsel Ragucci

It's under C Representation. Okay, I'm happy to do that.

Chairman Heppner

Yeah, absolutely. We all agree. We don't want any negative comas.

Legislator Ronk

No. Is it an Oxford comma?

Legislative Counsel Ragucci

I don't think so. Just a regular comma.

Legislator Ronk

Alright, fair enough.

Chairman Heppner

So this the language highlight is provided that multiple violations of the county ethics law arise from the same common nucleolus of fact that shall be deemed a single violation for the purpose of the imposition of a civil penalty. This was highlighted for further discussion for those who are newer to this. I think this was based on the conversation that what we did not what we wanted to avoid, which we had seen action taken in the past where an individual could violate one ethics law, but because they spoke on it say in the, they spoke on it and they shouldn't have spoken on it, but they spoke on it in caucus, committee, and then on the floor, that then they could be charged three times for the same violation. That's something we were trying to avoid. So is there any further discussion. I mean, I know the arising from the same common nucleolus of fact is a little, a little bit interesting wordsmith. But you know, it gets to the point

Legislator Levine

seems like common protection against double jeopardy to me,

Chairman Heppner

Yeah. counselor Ragucci?

Legislative Counsel Ragucci

No legal objection. I think it makes sense

Chairman Heppner

Alright. I'm good if folks are good.

Legislator Ronk

I'm fine

Chairman Heppner

Everyone's good.

Legislator Roberts

We're good.

Chairman Heppner

Let's move on. That wasn't. I think that was, was that the last one?

Legislator Ronk

The last, it might be the last flag that we had. But then, are we are we going to talk about the

Chairman Heppner

Yeah, that's the last flag we had. Was your next question.

Legislator Ronk

Are we going to talk briefly about the new concern that was brought up by Chair Bartels?

Chairman Heppner

Which one was that? I [inaudible]

Legislator Ronk

That was the, you know, a conflict of interest language, or is that going by the wayside?

Chairman Heppner

I don't have you know, you know what section that was. I don't have anything

Legislator Ronk

Counselor Ragucci had worked on some language, was my understanding.

Chairman Heppner

I don't I wasn't provided any information, new information on that.

Legislative Counsel Ragucci

I think actually, my I believe minority Counsel and I did come up with some proposed language a couple weeks back. Jay did you have

Legislator Ronk

I don't I don't support the change. That's why I wanted to bring it up. If we were going to talk about it.

Chairman Heppner

Has it, the Chair did not flag it for me.

Legislator Ronk

Alright.

Chairman Heppner

Yeah.

Legislator Ronk

I'm fine not moving forward on them. It would actually pleased me.

Chairman Heppner

But I can't even speak to it because I don't know what we're speaking to, so

Legislator Ronk

It was it was it was pretty much changing a conflict of interest to not have a any law of general application apply to a conflict of interest. It had to do with the the opinion the advisory opinion, on the Good Cause Eviction law.

Chairman Heppner

Okay, well, again, we're gonna because of the timing of this, we'll have next committee meeting. So yeah, when she's back from being away, if she if you can bring that up. Let's just keep trying to get through what we do have in front of us. That's all right.

Legislator Ronk

Yep.

Chairman Heppner

All right. So you do have before you number of appendix documents, the first being appendix document number two, this is your standard. This is the annual statement of financial ethics disclosure form, so far, where you can see it. Where it's in bold, like, I think it's just two, then what was it again, Jay? It was essentially it's just updating.

Deputy Clerk Mahler

Number 3. I don't have it. I'm getting it. I think I I just got excited about how quickly you were moving.

Chairman Heppner

Essentially it's just updating the financial disclosure form

Deputy Clerk Mahler

Okay. Sorry. You added three to the question that no one gets right. That no one discloses their county salary under other income, which is now number four.

Legislator Ronk

Right

Deputy Clerk Mahler

So you all wanted a separate section added just to speak to county in income. So that's number three.

Legislator Ronk

Yep.

Deputy Clerk Mahler

The numbers have been been shifted to accommodate new three. The term immediate family member, a member of household has been changed throughout to reflect the changes that you made in the definition section. And then 10 A was added to accommodate the the exemptions of gifts section that you made in Section 5 F for complimentary attendance at functions. So really, the only changes in here besides the ministerial definition consistencies, are to three, and then this 10 A.

Chairman Heppner

I have no objection with any of those

Chairman Heppner

Legislator Gavaris. You have your hand raised

Legislator Gavaris

Yeah, counselor Ragucci has had before me but he put it down. I have to jump off. I just had a quick question if if counsel could explain on Attachment D. Sect I'm sorry, Appendix C, section 5 F. Can you explain that what that's trying to say? Cuz I'm completely spinning in circles over that.

Legislative Counsel Ragucci

Sorry, Appendix B, section 5F?

Legislator Gavaris

Sorry C as in Charles, I'm sorry.

Chairman Heppner

Right there on the screen Chris.

Legislative Counsel Ragucci

I was trying to find my hardcopy here. Jay, could you just expand it a little bit, it's a little tiny? So in general terms judicial notice is when a court takes note or notice of a given fact, in a case, for example, a date, or an address could be a piece of information that is, given what's called judicial notice. And this provision says official notice, just like similar to judicial notice may be taken of all facts of which judicial notice may be taken, and of other facts within the specialized knowledge of the board. So it is apparently imparting the same powers of judicial notice onto official notice regarding knowledge of the board that the board deems fit to have official notice.

Legislator Gavaris

I guess

Legislative Counsel Ragucci

does that make sense or

Legislator Gavaris

It's convoluted, but I understand it now.

Legislative Counsel Ragucci

Sorry, I was trying to be concise

Legislator Gavaris

The difference between the official and judicial. I understand. I apologize. I do have another meeting I have to start right now. So

Chairman Heppner

Thank you. Appreciate it.

Legislator Ronk

Thanks John

Comptroller March Gallagher

Chair Heppner, if I could just

Chairman Heppner

Please

Comptroller March Gallagher

Appendix A for a second, I just wanted to note that the constituent services navigation director, project director position is not identified in IS and it is a new, a new set of you know, sort of a new division within county government. It's up to you guys whether you want to recommend that position be added. But I did note that it wasn't included.

Chairman Heppner

One second. So everyone was good with Appendix A. I mean, with the financial one Yeah. Well I think it was A

Legislator Ronk

Affirmative. I'm fine with the Yeah.

Chairman Heppner

Alright, so so with this can you repeat that one more time? Sorry, Comptroller Gallagher

Comptroller March Gallagher

Sure in appendix A where we're identifying the positions that must comply? um on page. Trying to find it now. um page 2 the bottom of page two. In the Information Services Department, you know, we've created a new division, this constituent services navigation division, and there's a project director there who's the lead who is not identified here? I, you know,

Chairman Heppner

I'm happy to add, they also could have been this, we could have gotten these recommendations before we actually created that position.

Comptroller March Gallagher

I think that's what happened.

Chairman Heppner

Yeah,

Legislator Ronk

I'm fine with that, too.

Chairman Heppner

No objection.

Rich Williams

This is so this is Richie, the Williams County assistant county attorney just I'm in listening mode normally, but on page one, I will note at the bottom Department of Budget and innovation, innovation of should have three Ns just throwing it out there.

Chairman Heppner

Thank you, you know, as you as you can tell, we're very, very proud of our grammar. So we want to make sure we're caught when we're wrong. So can we go back? Thank you for adding that Jay. I think that's a very good suggestion. Jay, do you want to go back to the top? There so folks can see the little key there. You know, these are ones, the ones with the asterisk just a plain asterisk are additions that as per our changes to the law were added.

The ones highlighted were additional additions based on the request of feedback we reached out to, who was the Jay? the executives office, the Sheriff the Comptroller and the district attorney all

Deputy Clerk Mahler

And the County Clerk

Chairman Heppner

And the County Clerk. And I know March you brought back one, which is it is noted below. And then the remaining what I think the Sheriff said he was he was good. I don't know if we got any word back from the county Clerk. And the ones highlighted then otherwise was mainly from the county executive. Comptroller Gallagher.

Comptroller March Gallagher

Yeah, I'm sorry, I didn't, you know, this didn't come to mind earlier when Clerk Mahler sent this around. So I appreciate the opportunity to have commented then. but UCEDA is not listed. And the golden Hill Housing Corporation is not listed. And I think those definitely should be added. Here. You have board members making extremely complex financial decisions for the county and they should be required.

Chairman Heppner

I don't disagree. Do any other members have any concerns with that?

Legislator Ronk

Well, can we require members of an LDC?

Comptroller March Gallagher

We require members of the IDA and the the nonprofit arm of the IDA.

Legislator Ronk

I mean the the IDA is created as a sub county division by state law though the these LDCs are not. I don't know, it's a question for attorneys, not me.

Chairman Heppner

Yeah

Comptroller March Gallagher

I mean, right, right now, you're gonna have very, very expensive transactions being decided by people who have not filed.

Legislator Ronk

I don't disagree with you. My point is that I'd like our attorneys to weigh in on the legality of that before we just put it in

Chairman Heppner

legislative counsel or minority counsel, do you guys have any immediate comment on that?

Legislative Counsel Ragucci

I don't have an immediate comment. I'm certainly happy to look into it. I think the Comptroller raises a really good point. And if it's permitted, legally, it would seem to make sense.

Chairman Heppner

Can we just take a note to look into that prior to our next actual standing meeting this month?

Legislator Ronk

Hey, John, I got about five minutes and then I'm gonna have to go

Chairman Heppner

So, I think does anyone else have any issues with, I mean, I have no issues with the folks that the executive and who also the Comptroller recommended as additions, I have no problem with that there was no recommended subtractions on the from any of the folks. So I think we should be in agreement. And we'll have counsel, look into what I do think it's a good suggestion, we just got to make sure we're allowed to do it. Which would be important, if we can do it, that we do do it. So with that the way I look at it, if it's okay with, this is also great, everyone, we I'm impressed that we got through it the way we got through that. It's for some of us, it's been a couple of years. But we've been because a lot of that work. So I think, you know, I would like to send this around the current version, since we got through the law, the current version to the current Legislature, since we do have a new Legislature from the last time this was sent around. And that gives them a lot of time ahead of our standing committee meeting. And then add to the agenda of our standing committee meeting at the end, any actions because again, we're already past Resolution. any if we want to put this in to get the ball rolling and public hearing and all that, you know, we got to wait till the march, you know, the next resolution deadline after February session. So I think this actually puts us in enough a good timeline, after this successful meeting to get any input from especially so the new folks can see it. if that's okay with the body. We can take up anything at the end of our standing meeting. And then at the end of that meeting, we can make the decision if we're all comfortable of putting that in during the resolution deadline following February session. If that sounds

Deputy Clerk Mahler

Just as a friendly reminder, you actually have a resolution in setting a public hearing last month. So you're so you're,

Chairman Heppner

It's already in

Deputy Clerk Mahler

you're already in. So if you want to postpone you're welcome to postpone but you do have a resolution and setting a public hearing currently before you for next month

Chairman Heppner

So we can take this up and we'll take no action until we go over this. And if we want to bring it back up and pass the public hearing next meeting. Thank you for pointing that out. So we can do it. So we have options. But we're in a good place and will allow our colleagues to review it. And I appreciate everyone's input tonight and comments it was all very productive and positive. So again, thank you and with that motion to close?

Legislator Ronk

So moved.

Chairman Heppner

Second

Legislator Roberts

Second.

Chairman Heppner

Have a great day.

Legislator Levine Thank you, Mr. Chairman.