

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

DATE & TIME: August 15, 2016 – 6:30 PM
LOCATION: KL Binder Library, 6th Floor, County Office Building
PRESIDING OFFICER: Chairman Kevin Roberts
LEGISLATIVE STAFF: Jay Mahler, Deputy Clerk
PRESENT: Legislators Belfiglio, Donaldson, R. Parete (arrived 6:33 PM),
Rodriguez and Chairman Ronk
ABSENT: None
QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Berky, J. Parete and Allen, Legislative Counsel Pascale, Commissioner Susan Plonski – Department of Public Works, Mr. Tom Kadgen – League of Women Voters

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

Motion No. 1: **Moved to Approve the Minutes of the July 11, 2016 special meeting and the July 18, 2016 regular meeting**

Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Belfiglio

Discussion: None

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

Resolutions for the August 16, 2016 Session of the Legislature

Resolution No. 382: Setting A Public Hearing On Proposed Local Law No. 11 of 2016 (A Local Law Prohibiting Discrimination On The Basis Of Gender Identity At Places Of Public Accommodation, Resort Or Amusement) To Be Held On Tuesday, September 13, 2016 At 6:10 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, September 13, 2016 at 6:10 PM to allow the public to offer comments on Proposed Local Law Number 11 of 2016.

Motion No. 2: **Moved for discussion**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Belfiglio

Discussion:

Legislator Rodriguez commented that he would like to see the law move forward to a public hearing. Legislator Donaldson added that there were changes made to the law after the special meeting was held. Chairman Ronk stated that while there were some changes made, concerns of Legislative Counsel were still not addressed. He added that while he is always in favor of public comment on local laws, he does not feel that forwarding a law that both Legislative Counselors believe is legally flawed is a wise use of time. He stated that law would be covered by the comprehensive Human Rights Law being introduced in September.

Legislator Berky responded that she did not receive any written objections by Legislative Counsel and mentioned that other counties passed transgender laws before comprehensive Human Rights Laws. Chairman Ronk questioned whether the other counties Legislator Berky referred to passed transgender rights and human rights laws in consecutive months. Legislator Berky responded that she believed the Human Rights Law would take a few months of collaboration before being adopted. Legislator Rodriguez echoed Legislator Berky's comments on the amount of time expected until the Human Rights Law would be adopted.

Legislator Donaldson stated that he did not feel there was any issue with adopting a Transgender Rights law and then adopting a comprehensive Human Rights Law closely following and called for a vote. Chairman Roberts stated that he would like to hear from Legislative Counselor Pascale before voting and asked him if he had anything in writing to give to Legislator Berky.

Counselor Pascale responded that he had an opinion available. Chairman Ronk added that the opinion stated all of the same concerns that Counselor Pascale brought up at the recent special meeting. Counselor Pascale stated that his two main concerns brought up at the special meeting were not addressed in the revisions. He reiterated that there is a statewide regulation against discrimination based on gender identity and added that the State Division of Human Rights will accept complaints statewide. He advised the members that the Governor's announcement of the regulation was in an effort to avoid piecemeal legislative action locally. He stated that the regulation was stronger than an Executive Order, but was not quite a law. He continued by saying that he and Counselor Guerin believe that the state law does not permit the local Human Rights Commission to act as a court or judicial tribunal. Legislator Berky responded that it was never the intent to suggest that the Human Rights Commission would adjudicate cases, but rather hear complaints. Counselor Pascale responded that the way the current law is written requires the commission to adjudicate complaints in order to levy the fines stipulated in the law.

Legislator Rodriguez stated that he would like to see the law moved to a public hearing despite Legislative Counsel's concerns. Chairman Roberts asked for clarification on what is expressly permitted or prohibited by state law. Counselor Pascale responded that the state law spells out what the local commissions can do and to adjudicate and impose penalties is not permissible. Chairman Ronk added that some of the other commissions in the state claim to be created by the police powers of the county and not under the authorization of the General Municipal Law used here. Counselor Pascale concurred.

Legislator Donaldson stated that there are many boards in the county that levy fines. Chairman Ronk responded that the authority to do that is granted to each of those individual boards through home rule requests or other mechanisms. Counselor Pascale added that the Human Rights Commission was set up to be conciliatory not punitive. Legislator Rodriguez stated that Counselor Ragucci has stated he is fine with the law as written and said he'd like to vote on the resolution setting the public hearing. Counselor Pascale stated that he has not had an opportunity to discuss Counselor Ragucci's legal justifications for the law as written. He informed the members that Counselor Ragucci advised him that the law was modeled after the New York City. He added that New York City has concurrent jurisdiction with the state which allows them certain authorities not automatically granted to other localities.

Chairman Ronk expressed concern about moving forward with a flawed law because of the possibility of it being challenged and the potential for the aggrieved party to then be denied the opportunity to have their case heard by the state. He added that he did not see the need to rush the law through when the state already has a mechanism in place to adjudicate complaints. He added his opinion that the matter is best left to the state in order to maintain a standard of conduct across county lines. Counselor Pascale mentioned that a change made to Section 2C of the local law now puts it in direct conflict with the state regulation as to "places of public accommodation."

Legislator R. Parete asked if the committee could get an opinion from the Attorney General. Chairman Ronk responded that the only person who can ask the Attorney General for an opinion is County Attorney Havranek. Counselor Pascale stated that there are Attorney General Opinions, mostly from the 70s, which agree with his position that the local Human Rights Commission cannot go beyond what the state statute allows. He said he would be happy to circulate those opinions.

Chairman Roberts commented that he would like to see the law move forward and suggested it be amended to stipulate that the commission would refer cases to the state. Legislator Belfiglio commented that an aggrieved individual would most likely be seeking civil penalties. He asked if the local commission made a negative determination would that affect a person's ability to petition the state commission. Counselor Pascale responded that a negative determination on the local level could prohibit a person from petitioning the state. He added that if the law is passed in its current form and is properly challenged and the challenge is successful, it is possible that someone could be deprived of a remedy. He added that the comprehensive Human Rights Law being introduced is modeled after a Westchester County Law which has the same enforcement language in reference to the Human Rights Commission. He informed the members that the law has been challenged, but has not yet been heard. He continued by saying that when the law goes before a court and if it's determined to be unconstitutional or preempted an individual could be denied a remedy.

Legislator Berky asked Counselor Pascale and Chairman Ronk for language needed to make the enforcement section acceptable to them. Legislator J. Parete complimented the Legislators on the substantive and courteous debate that has taken place on the law and asked if briefs or opinions of the three counselors could be made available for review by the members.

Chairman Roberts said he thinks the law is on the right track, but that he cannot support it in its current form with the concerns of Counselors Pascale and Guerin. Legislator Berky responded that she would like to request the resolution be postponed for one month. She added that she would like to see a more formal memo relating counselors concerns. Chairman Roberts suggested that

Legislator Berky work directly with counsel. Legislator Donaldson commented on the benefits of handling matters locally. Legislator R. Parete asked how many cases have been referred by the Human Rights Commission. Counselor Pascale responded that the State Division for Human Rights website for Albany and Binghamton, which are the divisions that would draw Ulster County, reported close to zero percent of the statewide commission's cases. He added that they would have to FOIL for the actual number.

Motion No. 3: Moved to Postpone Resolution No. 382 for one month
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Donaldson

Discussion:

Chairman Ronk stated that he would ask Legislative Counsel to provide a written opinion and requested that Legislator Rodriguez request the same from Minority Counsel Ragucci.

Voting In Favor: Legislators Belfiglio, Donaldson, R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: Resolution POSTPONED FOR ONE MONTH

LATE Resolution No. 384: Approving The Execution Of A Contract Amendment Causing The Aggregate Contract Amount To Be In Excess Of \$50,000.00 Entered Into By The County – Costanzi Crane, Inc. – Department Of Public Works

Resolution Summary: This resolution approves the execution of a contract amendment in the amount of \$25,200 with Costanzi Crane, Inc. to increase the number of days of crane services to set the temporary Carmine Liberta Bridge in the Town of New Paltz.

Motion No. 4: Moved to adopt Resolution No. 384
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Donaldson

Discussion:

Chairman Roberts recognized Department of Public Works Commissioner Plonksi to explain the lateness of the resolution. Commissioner Plonski informed the members that there were some issues when setting the temporary bridge. She continued by saying that the west side abutment was settling more than anticipated requiring the crane to come back several times. Chairman Ronk added that Constanzi Crane was a local company and that approving the resolution late will ensure payment is not delayed.

Voting In Favor: Legislators Belfiglio, Donaldson, R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 6

Votes Against: 0
Disposition: Resolution ADOPTED

Legislator R. Parete mentioned that he spoke to a gentleman named Ralph Johnson who the county has called in the past to consult on certain construction matters, ie: issues encountered during construction of the new jail. Mr. Johnson asked him for an update on the county's issue with a contractor and a bridge and asked him if the Legislators were informed of the matter by the County Attorney. Commissioner Plonski asked if Legislator R. Parete was referring to the Carmine Liberta Bridge project or another bridge. Legislator R. Parete responded that he wasn't sure which bridge and asked if Commissioner Plonksi was aware if Mr. Johnson had been asked to consult on any projects in the past year.

Chairman Ronk stated that he believed the project Mr. Johnson was asked to consult on had to do with litigation involving a subcontractor and a bridge where fiber optic cables were uncovered. The Legislators stated that they were not aware that Mr. Johnson was asked to consult. Chairman Roberts requested that legislative staff inquire if Mr. Johnson's services had been requested within the past year or two.

LATE Resolution No. 385: Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – Niagra Erecting, Inc. – Department Of Public Works

Resolution Summary: This resolution approves the execution of a contract in the amount of \$243,500 with Niagra Erecting, Inc. for crane services for the installation of truss work and floor beams on the new Carmine Liberta Bridge in the Town of New Paltz.

Motion No. 5: Moved to adopt Resolution No. 385
Motion By: Legislator Ronk
Motion Seconded By: Legislator Rodriguez

Discussion:

Commissioner Plonksi explained that the contract was for a crane to set the truss and floor beams on the new bridge.

Voting In Favor: Legislators Belfiglio, Donaldson, R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: Resolution ADOPTED

LATE Resolution No. 386: Authorizing The Chairman Of The Ulster County Legislature To Enter Into A Lease Extension Agreement with GD Realty Kingston LLC For Office Space Currently Occupied By The Ulster County Family Court Located At 16 Lucas Avenue, Kingston, New York – Department of Public Works (Buildings And Grounds)

Resolution Summary: This resolution authorizes the Chairman to enter into a lease extension agreement for the current Ulster County Family Court facility on Lucas Avenue, Kingston for a term commencing on September 1, 2016 and terminating August 31, 2018 at an annual cost of \$224,000.

Motion No. 6: Moved to adopt Resolution No. 386

Motion By: Legislator Ronk

Motion Seconded By: Legislator Donaldson

Discussion: None

Voting In Favor: Legislators Belfiglio, Donaldson, R. Parete, Roberts, Rodriguez and Ronk

Voting Against: None

Votes in Favor: 6

Votes Against: 0

Disposition: Resolution ADOPTED

Resolution No. 291: Setting A Public Hearing On Proposed Local Law No. 9 of 2016 (A Local Law Regarding Campaign Finance Reform in Ulster County) To Be Held On Tuesday, September 13, 2016 At 6:05 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, September 13, 2016 at 6:05 PM to allow the public to offer comments on Proposed Local Law Number 9 of 2016.

Motion No. 7: Moved to postpone Resolution No. 291

Motion By: Legislator Rodriguez

Motion Seconded By: Legislator Donaldson

Discussion:

Legislator Donaldson, Chairman of the subcommittee appointed by Chairman Roberts to review the law, explained that the special meeting scheduled for the prior week was delayed and then canceled because of the length of time the Energy & Environment Committee meeting lasted. He discussed possible meeting times with subcommittee members R. Parete and Rodriguez and set a meeting for Wednesday, August 17 at 6 PM in the KL Binder Library, 6th Floor, County Office Building.

Voting In Favor: Legislators Belfiglio, Donaldson, R. Parete, Roberts, Rodriguez and Ronk

Voting Against: None

Votes in Favor: 6

Votes Against: 0

Disposition: Resolution POSTPONED

Resolution No. 357: Adopting Proposed Local Law No. 8 of 2016, (A Local Law Prohibiting The Sale And Use Of Sky Lanterns In Ulster County)

Resolution Summary: This resolution adopts Proposed Local Law No. 8 of 2016.

Motion No. 8: Moved to adopt Resolution No. 357
Motion By: Legislator Ronk
Motion Seconded By: Legislator Belfiglio

Discussion: None

Voting In Favor: Legislators Belfiglio, Donaldson, R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 6
Votes Against: 0
Disposition: Resolution ADOPTED

Resolution No. 363: Approving Ballot Proposition To Be Submitted To The Qualified Voters Of Ulster County Regarding A New Location For Ulster County Family Court

Resolution Summary: This resolution calls for the rescinding of the current Ballot language on file at the Ulster County Board of Elections regarding relocating the Ulster County Family Court facility and replacing it with alternate language.

Motion No. 9: Moved to adopt Resolution No. 363
Motion By: Legislator Belfiglio
Motion Seconded By: Legislator Rodriguez

Discussion:

Legislator Donaldson stated that he feels ballot language should be neutral and the way the language is currently written is not neutral and opens it up to a court challenge. He added that he believes a challenge is possible which could result in the measure not appearing on this year's ballot. The members discussed possible court costs, the process for legal challenge and the language. Legislator Donaldson acknowledged and appreciated that Chairman Ronk reached out to the members for their thoughts before drafting the language adding that he assumed the language would be neutral so did not respond until the language was provided. Chairman Ronk thanked Legislators Donaldson and J. Parete for contacting him to express their concerns and stated that the language was amended as a result. He added that a member of the public contacted him after reading about the matter in the paper to say that he appreciated the information provided in the language. Legislator R. Parete mentioned the neutral ballot language used when asking voters about reducing the size of the legislature and single member districts. The members further discussed what constitutes neutral language.

Voting In Favor: Legislators Donaldson, R. Parete and Rodriguez
Voting Against: Legislators Belfiglio, Roberts and Ronk
Votes in Favor: 3

Votes Against: 3
Disposition: Resolution DEFEATED

New Business

Chairman Roberts recognized Legislator Rodriguez to discuss Resolution No. 383 - Setting A Public Hearing On Proposed Local Law No. 12 of 2016 (A Local Law Establishing A Comprehensive Ulster County Human Rights Law) To Be Held On Tuesday, October 11, 2016 At 6:00 PM. Legislator Rodriguez explained that he requested a September introduction for the Resolution in order to give members of the committee and the full Legislature time to read through the Proposed Local Law and forward any thoughts, concerns or questions.

Chairman Roberts asked if there was any other business, and hearing none;

Adjournment

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

TIME: 8:00 PM
Respectfully submitted: Jay Mahler, Deputy Clerk
Minutes Approved: September 19, 2016