

Energy & Environment Committee

Regular Meeting Minutes

DATE & TIME: February 11, 2013, 6:30 PM
LOCATION: Karen L. Binder Library, 6th Floor, COB, Kingston, NY
PRESIDING OFFICER: Chair Tracey A. Bartels
LEGISLATIVE STAFF: Krista J. Barringer, Deputy Clerk
PRESENT: Legislators Manna Jo Greene, Richard Parete, Kenneth Ronk (arrived at 6:52 PM), and Mary Wawro
EXCUSED: None
QUORUM PRESENT: Yes
OTHER ATTENDEES: Legislator Kenneth Wishnick, RRA Executive Director Tim Rose, RRA Board Member Charlie Landi, League of Women Voters Representative Thomas Kadgen, Energy Improvement Corporation Representatives Mark Thielking and Joe DelSindaco, and Deputy County Executive Kenneth Crannell.

Chair Bartels called the meeting to order at 6:34 PM.

MOTION NO. 1 RESOLVED To Approve the Minutes of January 22, 2014

Motion Made By: Legislator Wawro
Motion Seconded By: Legislator Parete
Discussion: None
Roll Call Vote: No
Voting In Favor: Legislators Bartels, Greene, Parete, and Wawro
Voting Against: None
No. of Votes in Favor: 4
No. of Votes Against: 0
Disposition: Carried

Motion No. 2 Resolution No. 71 – February 18, 2014

Text of Motion: **Resolved to approve Resolution No. 71** - Appropriation For The Ulster County Soil And Water Conservation District
Motion Made By: Legislator Wawro
Motion Seconded By: Legislator Parete

Resolution No. 71 Summary: This Resolution authorizes and directs the Commissioner to pay the Chairman of the District Directors of the Ulster County Soil and Water Conservation District, the sum of \$91,500.00 to be used by the Directors as authorized pursuant to said Section 223 (1) of the County Law so long as the Ulster County Soil and Water Conservation District renders:

- a true and accurate report of its operations for the year 2013 prior to the release of any authorized funding for 2014,
- a Memorandum of Receipt signed by the Chairman of the District Directors, agreeing to comply with the terms of this Resolution, is delivered to the Commissioner of Finance,
- a verified account of disbursements with certified vouchers attached and refund any unused amount on or before the 31st day of December 2014,
- a true and accurate report of its operations for the year 2014 on or before January 15, 2015 with the Clerk of the Ulster County Legislature containing a true and accurate account of all receipts and expenditures, and

that the Comptroller and/or any and all officers of the County of Ulster, their agents and representatives, shall be allowed full access upon reasonable notice and at reasonable times to the books, papers, records and premises of the Ulster County Soil and Water Conservation District during the period that this Resolution is in effect for the purpose of ascertaining the manner in which the above sum of money is being used or applied. In addition, the Ulster County Soil and Water Conservation District agrees to comply with all applicable Federal, State and local regulations including, in particular, any forbidding discrimination by such organization.

Discussion: None
Roll Call Vote: No
Voting In Favor: Legislators Bartels, Greene, Parete, and Wawro
Voting Against: None
No. of Votes in Favor: 4
No. of Votes Against: 0
Disposition: Carried

Guest Speakers: Mark Thielking and Joe DelSindaco, Energy Improvement Corporation

Mr. DelSindaco and Mr. Thielking discussed their backgrounds and the history of the development of the Energy Improvement Corporation (EIC). They noted the credit opportunity with PACE (Property Assessed Clean Energy)'s shared service enterprise.

Mr. DelSindaco distributed and reviewed a printed presentation. This presentation is attached to the minutes.

Mr. DelSindaco noted they anticipate being self-sustaining by 2015 and that this was an opportunity to finance projects on a long term basis. He noted the aggressive PACE work being done by the State of Connecticut. He noted the loan is paid through the property tax bill.

Legislator Wishnick asked what would happen to the loan if the property changed ownership. Mr. DelSindaco replied the loan remains on the property upon sale or transfer. Legislator Wishnick asked if they were able to pay off the loan, could the seller do this prior to the sale. Mr. DelSindaco replied as per law, the business would be unable to prepay or accelerate payments to the loan. He stated it was traditional interest rate based on the time the loan is financed. Mr. Thielking stated it was the same concept as a water district tax bill, which one is unable to prepay.

Mr. DelSindaco highlighted the cash flow positive aspect which means the repayment on the debt must be less than the energy savings associated with the project. He noted the owner is saving from day one, even though they are taking on debt. He noted the additional forms of economic benefit offered to the local community, in terms of indirect jobs created.

Mr. DelSindaco stated they established a line of credit through First Niagara Bank. He stated they would be going into the capital market to issue bonds to cover the cost of investment in these projects.

Mr. DelSindaco noted Ulster County and the City of Kingston would need to be members of the EIC as these municipalities have the lien and enforcement authority if a home goes into foreclosure as it can place a lien on the property.

Deputy County Executive Crannell clarified that this was for commerce properties to which Mr. DelSindaco replied it was. Deputy County Executive Crannell noted there have been problems with PACE bonds on residences.

Deputy County Executive Crannell clarified if a commercial venture outside the City of Kingston were eligible, the City of Kingston would not enter the project to which Mr. DelSindaco indicated this was correct.

Legislator Parete asked if a Town could participate. Mr. DelSindaco noted Westchester County was the only County in New York State where Towns have lien authority. Deputy County Executive Crannell indicated in Westchester the Towns make the County whole.

Legislator Wishnick asked if the loans received current lender approval for senior lender status at sale. Mr. DelSindaco replied that they do seek lender approval. He stated they ensure there were no surprises or problems for the community or property owner. Legislator Wishnick asked if there were any issues with lenders. Mr. DelSindaco replied it hasn't been an issue nationally but that there was some resistance at some banks but that it has not been an impediment. He highlighted the projects enhance the value of the

collateral associated with the financing and the requirement that the business is cash flow positive. Legislator Wishnick asked if the lien could impair a buyer's ability to sell. Mr. DelSindaco replied that has not been the case nationally and that instead the owners are able to market a more valuable piece of property. He stated NYSERDA certified the project's completion prior to the issuance of the money.

Mr. DelSindaco noted the municipality pledges the payment to EIC just like it pledges the payment to a school, fire, water, or park district. He noted this additional pledge increased the strength of the bond to the creditors as it was not just the credit worthiness of the property owner but also based on the municipal trust. He indicated there were steps to inoculate the municipality from any loss. He discussed a loan loss reserve fund in the event the property went into foreclosure which would be accessed in the event that the municipality was unable to raise enough money to recover the unpaid taxes associated with the lien. He indicated the municipality was made whole. He stated if the municipality failed to pay its portion, the bond holders were made whole. He noted there was a little over \$1 million in the reserve fund.

Mr. DelSindaco discussed the Qualified Energy Conservation Bonds (QECCB) which paid 50-70% of interest costs associated with the bonds. He noted in Westchester County they had \$8 million in QECCB Bond Capacity and allocated the authorization to issue bonds to EIC on the County's behalf to affordable housing and not for profit projects. Ulster County has \$1.9 million in QECCB Bond Capacity; which must be used for energy efficiency and renewables in commercial buildings.

Legislator Ronk asked what would happen to the loan if the property is taken for taxes. Mr. DelSindaco replied the loan is a level payment after the deal is closed and funding is received. He stated the taxing authority would receive within 90 days of their printing the tax bills the information of how much to add to the specific tax bill. He stated a line would be added to the tax bill and while the EIC does all the other services, the receiver is simply given a list of the specific properties and the amounts to be added to their bills. He stated when the receiver collects the taxes, the receiver would pool all of the funds being made for payments through the EIC and cut a check to the trustee.

Legislator Ronk asked about the impact on the tax cap. Mr. DelSindaco replied there was no impact as it was exempt from the 2% tax cap.

Legislator Parete asked if multi-family buildings as part of an LLC were eligible. Mr. DelSindaco replied they were one of the market segments. He discussed some examples of energy improvements made at multi-family buildings.

Legislator Ronk requested a copy of the communication from the State Comptroller indicating these loans were exempt from the tax cap. Mr. DelSindaco indicated he could get this to him.

Mr. Thielking stated all documentation had been previously provided to Planning Department Director Dennis Doyle. Deputy County Executive Crannell indicated there were some internal discussion on this and indicated concerns regarding the County's role of enforcing delinquent taxes. He felt there might be a capital liability to the County. He noted the added value to the property would be benefit to all taxpayers.

Mr. DelSindaco indicated this was a new program and no bonds had yet been issued.

Mr. Thielking noted there were 35 projects in various stages of development. He stated there were nine projects that had filed applications with \$3 million projected. He indicated there would be a number of closures in the next quarter.

Chairman Bartels asked about the reserve fund and if it could be accessed for late payments. Mr. DelSindaco replied this was an inoculating the municipality from permanent loss. He described the process for accessing the reserve fund.

Chairman Bartels asked about the success rates in Connecticut. Mr. Thielking replied they completed \$13 million worth of projects in little over 14 months with another \$20 million in the pipeline. He stated they expected to close by the end of this year a total of \$60 million worth of projects. He noted the breakdown of percentages across offices, multi-family, retail, and other projects.

Chairman Bartels asked if there were any failures in the program. Mr. Thielking replied it was too early to tell but that of the programs working out in California, there was antidotal evidence of delinquency rate for benefited properties is much lower. He stated the reason for this is that the program scrubs out any weak credits from the process and that they do not finance more than 10% of the value of the property. He noted with the low delinquency rate, the program is benefitting the community.

Mr. DelSindaco stated the Power Authority was doing over \$200 million spent per year in Energy Efficiency Bonds and the overwhelming majority of the customers are governmental. He noted there private sector companies that have been financed and were economic development power customers. He stated has never been a bad debt. He stated the property owner seeking this type of program desired an increase to the value of their property and was a different mindset than a property owner seeking to overly leverage a piece of real estate for other reasons.

Legislator Parete where an owner does not pay and the bank pays the County taxes, the bank pays the debt. Mr. Thielking noted the fact that they must pay the entire tax line and cannot separate out the loan. Mr. Thielking and Legislator Parete discussed the bank's desire to pay the taxes.

Deputy County Executive Crannell indicated the property tax auction often collects more than what is owed on the property. He noted these bonds would be paid back before the County's general fund.

Mr. Thielking clarified the County would have already paid the EIC and following the tax auction, the County would be paying itself back. He noted in a foreclosure situation, when the County takes title, it takes responsibility for payments on the lien.

Deputy County Executive Crannell expressed a concern where a valuable improvement was made to the property, it went to foreclosure, and no bids are received to make the taxes whole, the County would be responsible for the payments to the lien. Mr. Thielking replied in the situation where the property is sold at the tax auction for less than is owed on it, the reserve fund would be accessed to make the County whole for the cost of the lien. He noted the only issue was that the County would pay EIC in the interim until it was sold. Mr. DelSindaco noted it was a cash flow issue for them, not a loss issue for the municipality. He provided written copies of examples of a typical deal and case studies (attached to the minutes).

Legislator Ronk shared a situation of a commercial building in the Town of Shawgunk that was put on the tax auction sale when no tax bills had been received and no mortgage on the property.

Mr. DelSindaco reiterated the success and benefits to the constituents of the community.

Legislator Ronk asked if there was a percentage of the total cost in reserve. Mr. Thielking replied their Financial Advisory looked into this and examined the loss in the municipalities. He indicated there were two buckets in the reserve fund; one for lean holders and one for the municipalities.

Chairman Bartels asked if the QECB Bonds sunset. Mr. DelSindaco replied Washington, DC has indicated if the funds are not used by 2016, the program may disappear. Mr. Thielking stated they are discussing with the NY Senators to not allow this to sunset. Mr. DelSindaco indicated there is currently \$100 million in unused New York State QECB bonds.

Legislator Ronk asked who formed the LDC (Local Development Corporation). Mr. Thielking replied it was the Town of Bedford.

Deputy County Executive Crannell asked if the LDC would amend the bylaws to allow Ulster County members on the Board. Mr. DelSindaco replied the municipalities who join EIC be eligible to become a member and there was a nominating committee for Board membership. Mr. Thielking stated there were eleven members with three reserved for the communities with the highest number of liens, 5 open/at large seats, and 3 for north Westchester County. He provided copies of the by-laws (attached to the minutes). He noted the Board member must be either the County Executive or the Director of Financing.

Deputy County Executive Crannell asked if they could provide the company's financial filings. Mr. DelSindaco distributed documents (attached to the minutes) and stated these were also online.

Legislator Greene noted the deep energy renovation she did at her home improved the comfort level. She noted the hidden benefit to the quality of life for the employees and residents. She expressed the excellent track record Westchester County had with Green Jobs NY.

In clarifying a Board related question posed by Legislator Ronk, Mr. Thielking stated Orange County recently nominated and received a seat on the EIC Board. He noted it was being filled by the County's Director of Planning, David Church.

New Business: New Capacity Zone – Draft Resolution

Chairman Bartels noted this was a late Resolution and thus, was in the purview of the Laws and Rules, Governmental Services Committee. She noted time was the issue and that Legislator Greene had provided a lot of information on the New Capacity Zone. She indicated the research does not show any positives for Ulster County constituents and noted the Committee can request Laws and Rules, Governmental Services Committee to consider this Resolution.

Legislator Greene discussed the upcoming February 26th meeting for FERC (Federal Energy Regulatory Commission) to act on the New Capacity Zone. She highlighted the February 20th meeting of the Public Service Commission is to address the new transmission lines being proposed. Legislator Greene expressed concern that the public is finding out about these issues at the 11th hour despite people, like herself, following energy issues closely. She stated the energy proposals follow the legal process but these entities should be asking for public input before the 11th hour; especially in the zone that would be affected.

Legislator Greene noted the main concern was that the new capacity zone would require an increase in rates. She indicated she would provide the committee a map of the zones in discussion. She stated capacity was needed in Westchester and New York City. She noted the proposal would add the Central Hudson and the Orange-Rockland service zones to incentivize capacity building into the Westchester/NYC area. She expressed concern that they were doing this before addressing and resolving the transmission bottleneck issue.

Chairman Bartels noted this was the crux of the concern to their constituents and that the realities are an estimated 6-25% rate increases depending on residential versus commercial businesses.

Legislator Greene discussed the capacity rates components and charges. She noted concern for the businesses on the edge, such as a dairy farm, that relies on electricity would see their bills go up and this having a direct impact on business. She stated she looked for positive benefits but found only one possible benefit of prices forcing people to get serious about energy efficiency. She did not feel this was needed to do now. She

noted the Governor's energy highway proposal to address the transmission bottlenecks. She noted in this proposal, areas of need will be served and prices may actually go down.

In response to questioning from Legislator Parete as to if the State Legislature is voting on this issue, Legislator Greene indicated the Federal Energy Regulatory Commission (FERC) should be requested by all levels of municipalities to hold off and delay their decision. She noted the New Capacity Zone is neutral energy development and not focused on clean renewable energy. She indicated Central Hudson/Fortis and similar groups, including the Public Service Corporation (PSC) have agreed and are asking for a delay.

Legislator Ronk clarified the New Capacity Zone Resolution is the only one for consideration by the Legislature this month. Legislators Ronk and Greene discussed the concerns with the transmission resolution.

Legislator Ronk noted there appears to be a concern with increasing rates but did not see in the research the 25% as noted in the 7th whereas. Chairman Bartels stated she had read an estimated 18% in commercial rates and 400% increased charges for capacity charges. Legislator Greene referred to footnote #3 in her summary document (attached to minutes).

Deputy County Executive Crannell congratulated Legislator Greene for being on top of this issue and expressed concerns on the transmission resolution. He noted while there were four plans being considered, Ulster County filed for party status on the fourth proposal transmission project which was being followed by the County Planning Department Director. Chairman Bartels stated they would coordinate with Deputy County Executive Crannell for future discussion on the transmission resolution.

Legislator Parete motioned to refer the resolution to the Laws and Rules, Government Services Committee to consider. Legislator Ronk seconded the motion. Legislator Greene indicted the Laws and Rules, Government Services Committee could edit the 25% to the expressed 20%. **All were in favor and the motion to refer the resolution passed.**

Chairman Bartels noted Laws & Rules, Governmental Services Chairman Parete will need to allow the Resolution to be introduced at the next meeting and noted there will only be three members in attendance at that meeting.

Legislator Greene distributed information and discussed the February 20th meeting of the Public Service Corporation.

Legislator Ronk stated he would discuss this resolution with Legislator Roberts to address any concerns. He noted while the Laws and Rules, Governmental Services Committee would only have three members at their meeting next week and two of the members were in attendance at this meeting.

Legislator Greene stated she would circulate information before the February 20th and February 29th meetings. She noted the Town Supervisors unanimously passed a New Capacity Zone resolution and would be bringing it back to their towns.

Old Business: Appointments (Climate Smart Committee)

Chairman Bartels noted the Committee has five members and they were trying for two years to appoint to this Committee. She noted Legislator Greene had agreed to represent the Energy and Environment Committee and potential candidates Laura Petite representing the Towns and Legislator Loughran representing the Public Works Committee. She noted there were two other appointments to be filled. She stated she would circulate any resumes and put the final recommendations to the Chairman. She stated she would have a meeting with the Chair to discuss. In response to a question from Legislator Parete, Chairman Bartels noted the Committee has never had appointments since it was created by the Legislature. She stated she would reach out to Legislator Fabiano to let him know that Legislator Loughran has expressed interest in serving.

Old Business: Appointments (RRA Board)

Chair Bartels noted the majority of the Democratic Caucus had interviewed two possible appointments, were in support of the two candidates and she would be meeting with the Legislative Chair to discuss these appointments. She stated she would keep the Committee apprised. She stated she expected the appointments to be in next month's packet.

Old Business: Appointments (Environmental Management Council)

Chairman Bartels noted the Environmental Management Council were appointments of the County Executive and distributed the listing of the current municipal representatives. She noted if Legislators identified there was no representative from their town, they should reach out to request the position be filled.

Old Business: Appointments (Recycling Oversight Committee)

Chairman Bartels noted she and Legislator Greene were the only two remaining appointees to this Committee and that it had been five years since the Committee was seated. She requested the Energy and Environment Committee return with suggestions at the next meeting. She noted it was okay to appoint people to the Committee as they are identified.

Old Business: Environmental Management Council Term Limits

Chairman Bartels noted the prior Committee was working to get rid of term limits and that the only reason the Council was not out of compliance was that the appointment terms restarted after the adoption of the Charter. She noted the action to move the terms into compliance with the enabling State legislation would require a public referendum and cannot be fixed at this time as it would take power from the County Executive. She noted the key issue was to get rid of the term limits and that can be done. She noted there are currently volunteers that want to serve.

Legislator Parete felt if the terms were in conflict with State law then the Committee should move forward with a public referendum. The Committee discussed which piece to do first. Legislator Parete felt they should get the law in compliance with the state and look at the bylaws to ensure attendance. Chairman Bartels stated they would review the bylaws at the next meeting. Legislator Ronk felt the issue of compliance with the State law can be discussed at the Law & Rules, Governmental Services Committee as part of a larger charter amendment discussion.

Chairman Bartels noted the term limits can be changed and was an easy fix. The Committee discussed which committee should make rules changes and the level of change that school be done.

Legislator Parete clarified there was an error in the Charter and the County is not in compliance with the State. He stated he was not opposed to extending term limits but felt the appointees needed to attend. The Committee discussed volunteer appointments and attending meetings.

Old Business: RRA Reports (Distributed)

Chairman Bartels asked that reports be sent electronically to all Energy and Environment Committee members.

RRA Executive Director Rose stated the Board recently held it's reorganizational meeting; at which, Leon Smith was elected Chair, Cathrine Nelson was elected Vice-Chair, Al Teetsel was elected Treasurer, and Ken Gilligan was elected Secretary.

Legislator Ronk asked if there was an update to the tonnage. RRA Executive Director Rose replied they were doing well financially. RRA Board Member Landi stated they appointed an internal auditor. He stated they hired Sickler, Torchia, Allen & Churchill which was \$2,000 more than Kimble. He stated he voted against this decision as he felt, and everyone else appeared to agree that the two entities were equally qualified and thus, they should have gone with the lowest bidder.

RRA Executive Director Rose noted a recent Daily Freeman Article indicating they had a \$2.4 million profit was misleading as the agency had to pay the bond next month and would be taking a little out of the reserves to pay this. He noted they had a goal of

120,000 tons for the year and hit 118,000 tons. He stated the \$450,000 debt service would be reduced next year. He noted the final disposal contract would be bid out this year and hoped to see this reduced. He stated the State Comptroller's recommendation that they maintain 15% in reserve has not been met yet.

Legislator Parete asked if this was in the enabling legislation. RRA Executive Director Rose stated the tonnage revenue swings and they needed the reserve for those fluxuations. He stated the Comptroller has indicated over 20% in reserves is too much and they would identify the tipping fees as too high. He discussed the need to increase reserves versus decreasing the tipping fee.

Legislator Ronk asked about the negotiation with the RRA Board on the approval for the bonding authority. Chairman Bartels replied former Committee Chairman Carl Belfiglio and she met with the RRA Board Chair and after the resolution stalled in Committee, the RRA Board pushed back. She indicated she would call RRA Board Chair Smith to follow-up.

Legislator Ronk asked if there was any wiggle room on the aggregate. Chairman Bartels replied there was no wiggle room.

Legislator Ronk stated he wanted to go on record in regards to the appointments that he looked at the back up information and with his own recollection, there is one majority and one minority appointment up this year. He noted they might have a disagreement on this. Chairman Bartels stated Legislative Counsel Ragguci weighed in via a letter and stated she would get Counsel's opinion to the Committee members. Legislator Ronk stated their Counsel has a different opinion. Chairman Bartels indicating the Legislature has a past practice of chasing the 4-1 balance. She noted former Legislator Wadnola served in a minority office and in the year the Republicans took over, former Legislator Wadnola was replaced with a majority appointment. Legislator Ronk stated he understood Legislator Wadnola's minority spot was replaced with Dom Debrowsky. Chairman Bartels felt the document included in the packet was confusing and misleading. She stated she had the Resolutions at home that specified the appointments that year were all majority appointments. Legislator Ronk stated he felt there might have been a typographical error and noted Mr. Debrowsky was not a new appointment but rather a sitting majority appointment under the Democrats that was being reclassified as a minority appointment under the Republicans. He noted the Legislature needed to re-stagger the terms as somewhere within the history the terms were un-staggered. Chairman Bartels noted that was the year that Ms. Nelson was appointed to a one year term. Legislator Ronk noted Mr. Debrowsky took a different seat to allow the re-staggering of terms. He stated it was his opinion that if the Legislature was seeking a 4-1 balance by the end of a term, in the original legislation that created the RRA, they would not have staggered the terms. He stated the staggering of the terms was done to specifically done to promote continuity and to not promote the appointment of an entirely of most of a new Board in a four year period. Chairman Bartels questioned this rationale

in regards to the majority/minority designations. She noted the enabling Resolution states one member must be recommended by the minority leader and currently there are three minority members on the board. Resource Recovery Agency Executive Director Rose noted they were appointed by the majority party at the time. Legislator Parete and Chairman Bartels discussed the desire to change the balance to a 2/3 minority/majority appointment balance. Legislator Parete indicated he did not think the Legislature should be voting for two people from the City of Kingston. He noted the State legislation does not dictate but clearly recommends diversity throughout the County. He noted they changed appointments in the past from same Towns. He also felt an employee of a municipality that is one of the RRA's biggest customers should be a Board member. He felt this was an ethical issue. Chairman Bartels noted a legal opinion was provided on this and the enabling legislation specific to the Ulster County Resource Recovery Agency says that an employee of the municipality shall not be deemed to be a conflict of interest unless he or she is paid more by the RRA. Legislator Parete also noted the enabling legislation indicates there should be diversity in the County. He indicated the past history of individuals appointed to the Board should also be considered. Chairman Bartels indicated there were no specific names of appointments before the Committee at this time. Legislator Ronk indicated he did not desire a full discussion on the matter but rather a Committee awareness to avoid any concerns of last minute actions. Chairman Bartels noted this was why there were no names before the committee at this time as they were working through these issues. She concurred with Legislator Parete the advocacy for the 3/2 RRA Board membership. Resource Recovery Agency Executive Director Rose noted his understanding of the original creation of the 4/1 split was a desire for the Board make up to mimic the Legislature which at the time was majority Republican. He noted they have a Board History section on the website that included the board appointments in three different visual formats. He noted seat number four in their documents has historically been the minority seat. Deputy Clerk Barringer indicated this same information was listed in the first column of the document provided to the Committee.

Adjournment

Motion Made By: Legislator Ronk

Motion Seconded By: Legislator Wawro

No. of Votes in Favor: 5

No. of Votes Against: 0

TIME: 8:32 PM

Dated the 5th day of March, 2014

Krista Barringer, Deputy Clerk

Minutes Approved on: March 17, 2014