

## Energy & Environment Committee

### Regular Meeting Minutes

**DATE & TIME:** March 17, 2013, 6:45 PM  
**LOCATION:** Karen L. Binder Library, 6<sup>th</sup> Floor, COB, Kingston, NY  
**PRESIDING OFFICER:** Chair Tracey A. Bartels  
**LEGISLATIVE STAFF:** Krista J. Barringer, Deputy Clerk  
**PRESENT:** Legislators Manna Jo Greene, Richard Parete, and Mary Wawro (arrived 6:57 PM)  
**EXCUSED:** Kenneth J. Ronk  
**QUORUM PRESENT:** Yes  
**OTHER ATTENDEES:** Legislator Kenneth Wishnick, RRA Executive Director Tim Rose, League of Women Voters Representative Vic Melville, Riverkeeper Watershed Program Director Katherine Hudson, Riverkeeper Membership and Events Manager Dan Shapley, Ulster County Department of Planning Director Dennis Doyle, and Frack Free Catskills Representative Sue Rosenberg.

Chair Bartels called the meeting to order at 6:50 PM.

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#### **MOTION NO. 1                      RESOLVED To Approve the Minutes of February 11, 2014**

**Motion Made By:** Legislator Parete  
**Motion Seconded By:** Legislator Greene  
**Discussion:** None  
**Roll Call Vote:** No  
**Voting In Favor:** Legislators Bartels, Greene, and Parete  
**Voting Against:** None  
**No. of Votes in Favor:** 3  
**No. of Votes Against:** 0  
**Disposition:** Carried

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**RRA Report: Tim Rose, Executive Director, Resource Recovery Agency**

Resource Recovery Agency Executive Director Rose stated the agency's finances are on target. He noted the one year of flow control was providing good data and the February 2013 to February 2014 comparison indicated the same tonnage year to year. He stated March was looking the same and that for budget purposes, this was good news. He noted January and February were the traditional slow months and with construction, this typically picked up the end of March and into April.

Legislator Wishnick verified if volume each month was the same from year to year, it would mean a result of flow control there was no additional volume which enabled the Agency to equalize the cost for all and no one was leaving the system. Resource Recovery Agency Executive Director Rose replied the first part of his statement was correct and when they developed the budget, it is dependent on the economy and when the economy is down, the volume is down. He stated flow control allows them to better predict the volume.

Legislator Parete noted with flow control, it does not even out what everyone pays as it is regardless of who recycles and who does not and those using a hauler pay the same \$25-\$30 per month for the disposal service. He noted he often is able to skip a week of garbage due to his recycling habits but that his neighbors will still put out cans stuffed full and both with pay the same monthly bill. Chairman Bartels commented when paying a private hauler, the hauler is paying the same at the scale based on weight. Legislator Parete noted that would be the hauler's profit and that the incentive is not to recycle but rather to fill the can. Legislator Wishnick commented this was an interesting point and that the County may want to move to a pay by bag or volume option. Legislator Parete agreed with this proposal as it would incentivize recycling. Legislator Greene discussed the pay as you go option.

Legislator Greene inquired if Resource Recovery Agency Executive Director Rose had heard from the New York State Department of Environmental Conservation regarding the County's solid waste management plan. Resource Recovery Agency Executive Director Rose stated there had been no communication other than to indicate the Ulster County plan is next in line. He noted the plan was submitted to the DEC in December 2011. Chairman Bartels requested the Committee be informed when Resource Recovery Agency Executive Director Rose meets with the DEC representatives regarding the plan. Resource Recovery Agency Executive Director Rose replied he would send an email to the Committee. He noted the plan was developed pre-flow control and under the direction of a different Board. He stated two new Board Members could change the focus of the plan.

Resource Recovery Agency Executive Director Rose stated a resolution for the purchase of a trammel screen for composting was being presented at the next RRA Board meeting.

He stated bids were being opened the Friday before and noted the Agency had rented this piece of equipment for a couple of months before determining a full purchase would be not only beneficial but cost effective. He noted the other resolutions clarified a 2005 resolution regarding fuel charge and adjusted a job description for one employee to adjust for the medical leave of another employee.

Chairman Bartels noted Resource Recovery Agency Executive Board Member Landi gave his regrets for not attending tonight's Committee meeting and noted he was attending a City of Kingston Council meeting. She also noted she was scheduling a meeting with Resource Recovery Agency Executive Board Chair Smith to review the RRA Bonding Resolution discussions of last year.

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**Guest Speaker: Kate Hudson, Watershed Program Director, Riverkeeper**

Chairman Bartels introduced Kate Hudson, the Watershed Program Director for Riverkeeper.

Ms. Hudson introduced Dan Shapley, her co-worker at Riverkeeper. Ms. Hudson reviewed the presentation, "Crude Oil in Ulster County". Presentation is attached to the minutes.

Ms. Hudson highlighted Albany is one of seven significant shipping entry points for unrefined oil. She noted the difference between Bakken shipped crude oil, a light, sweet crude which in a spill would coat the shoreline and Canadian shipped crude oil, a heavier crude which is a tar sands solid which sinks in a spill.

She noted the jump of crude oil shipments which increased from single digit thousands to 450,000 in three years. She noted there are two crude oil trains per day with 100 to 120 cars long. She noted these used to be mixed loads and now are typically 110 crude oil cars on a single train.

She noted Global is seeking permits for boilers which would heat crude oil to ease the transfer of oil at the ships. She noted the only need to heat oil would be for the shipping of tar sands crude oil.

She noted the New York State Department of Environmental Conservation had given the permit a negative declaration; an indication there were no environmental impacts. She noted DEC's Region 4 was handling Albany permits and DEC's Region 3 had permits pending before it for Global. She noted a year ago, Global applied to double it's capacity at it's Albany shipping port.

She spoke about the shipping of Canadian oil through the Hudson Valley and back to a Canadian oil refinery allows them to trade anywhere in the world and not be retracted by United States ban on oil exports.

She highlighted the safety response of the oil industry that a “successful” recovery will only recover 10 – 20% of an oil spill and that 80 – 90% of the crude oil remains in the environment. Legislator Greene concurred the focus should be on the desire to prevent spills from occurring.

Legislator Wishnick inquired into the frequency of an oil barge shipping accident. Ms. Hudson replied there recently was a barge accident on the Mississippi and they were looking into the data. She spoke of a barge grounding below Albany and the response of a helicopter’s arrival four hours later to determine no oil was spilled as a result of the grounding. She noted after the Exxon-Valdes spill, there is a requirement for double hulls on all oil shipping vessels. She noted a train car will carry 30,000 gallons but a barge will carry significantly more product.

Mr. Shapley stated the accident rate of oil shipments had not increased but that the amount of product moving through the Hudson Valley had increased. He noted this was true for river transports as well. He noted while the chance for accident is low, the amount of potential damage in a single accident has grown. Ms. Hudson indicated a trail accident would result in a contained spill area but a river spill would environmentally spread. She noted their concern regarding train traffic on all the trestles that cross tributaries to the Hudson River. She noted spills from the trestles would be carried out to the Hudson fairly quickly.

Ms. Hudson stated the railroad industry refers to the oil tanker cars as “bomb trains”. She noted these DOT-111 tanker cars were designed to carry agricultural products and are not adequately shielded, do not have venting to protect against gas build up, and are prone to puncture if there is a derailment. She discussed the high flammability of the light crude shipments. Chairman Bartels asked who regulates these types of tankers and if there were regulations in place for what types of tankers can be used. Ms. Hudson replied there were lots of regulatory agencies but not one with a majority of oversight which results in a lot of finger pointing. She noted for two years, the industry itself has declared the cars unsafe but no one has, through regulatory rulemaking, required them to be replaced. Chairman Bartels asked who should be leaned on to ensure the appropriate oversight. Ms. Hudson replied this is rule making and that the pipeline administration indicates it is working on it with the hope of having a rule in place next year that will require the replacement of cars with a timeline to replace. She noted the DOT-111 cars will continue to carry this product for several years, at least. She stated Riverkeeper’s position is that these cars should not be allowed to carry heavy crude in New York State as they are too dangerous and that Governor Cuomo should be called on to put a moratorium on there use. She noted this was an accident waiting to happen. She spoke of an accident that occurred in Quebec. Ms. Hudson presented an Ulster: What if it happened here handout which superimposed the spill damage from the Quebec accident on the recent Town of Ulster train derailment area. (Handout attached to minutes.)

Ms. Hudson noted from the July 13, 2013 accident in Quebec, all six short line train companies involved in the accident declared bankruptcy and walked away. She noted the cost burden was left to the local and Federal government. In response to a question from Legislator Wishnick, she indicated there are no short lines operating in the Hudson Valley and that the two companies are CSX and Canadian-Pacific.

Ms. Hudson discussed New York State increased inspections of the railcars and rail beds. She noted the public response and perception of rail accidents in commuter versus cargo trainings. She noted there has been a lot of attention on the railroad concerns and that there has been less attention paid to the river shipping activity.

Legislator Wishnick noted the Hudson River is an interstate/international trade route and asked if there were any limitations to establishing regulations on the industry. Ms. Hudson replied the New York State Department of Environmental Conservation is opening the opportunity for State and local governments to dialogue with industry and Federal representatives. She spoke of an agreement in Pennsylvania with CSX and the role of the Federal Environmental Protection Agency (EPA).

Legislator Greene asked about the role of the Army Corp of Engineers. Ms. Hudson replied they are engaged if there is a proposal to dredge the river. She noted Global may have a proposal on the table to expand the Albany and New Windsor locations.

Ms. Hudson discussed recent warnings which have not resulted in any regulatory action. She highlighted Governor Cuomo's Executive Order which indicated the State did not have any authority and put together a group of State Agencies to request the Federal Government take action. She noted he also ordered a three month State Agency review of emergency preparedness. She noted the inspection blitz of just six miles of track. She recommended Ulster County finding out from the Comptroller his findings or recommendations of Ulster County bridges following his New York State Railroad Bridge Inspection of 2013.

Ms. Hudson noted an Albany County moratorium on Global expansion pending a Health Department inspection. Global has hired a local law firm opposing this moratorium.

Ms. Hudson indicated Rockland County sent its law enforcement officers to check the speed of the oil trains along the line. She noted the trains are moving at 50 mph and if there is a defect in a rail or a mail, they can derail. Mr. Shapley noted a braking train can take a mile to a mile and a half to come to a complete stop. He noted there was another train, traveling south, that stopped only one mile away from the Town of Ulster derailed train. Ms. Hudson noted this train was full of oil.

Ms. Hudson noted CSX communicated to the Rockland County Sheriff that they maintain an online system entitled Secure Now which allows emergency responders to track the location and content of trains as well as a density report that provides local information regarding tippage. She noted this could be requested by the County.

Department of Planning Director Doyle stated when his office reached out to CSX on general planning matters, they would not been given such basic information as total train counts.

Ms. Hudson suggested the law enforcement communities partner in its communication and requests of CSX.

Department of Planning Director Doyle estimated, there are one to two additional trains, based on an industry source and the New York State Department of Environmental Conservation. He noted the risks to Ulster County and the Hudson River is not just from barges as the trains run along the river.

Ms. Hudson noted no spill response can occur in winter and as such, there is no safe way to transport crude oil on the Hudson River to which a spill would not be a complete disaster. She noted rail could be safe with conditions set; such as, if the DOT-111 cars are eliminated, the upgrade of the infrastructure, the ability to respond, and to be able to the clean up more than 20%. She stated a moratorium should be in place until all of these items are accomplished.

Department of Planning Director Doyle discussed the State's leverage in that Federal funds pass through New York State Department of Transportation for safety. He noted there are a number of hazardous products that are transported by rail and that the Emergency Management Council has identified it's number one risk is hazardous rail transportation through the City of Kingston. Ms. Hudson and Department of Planning Director Doyle discussed New York State DOT's role and responsibilities on rail roads, highlighting the request that County and Local Governments be at the discussion tables regarding safety and study of the industry. They discussed the special status of a neighboring property owner to a railroad and the authority of a Local Waterfront Revitalization Plan community.

Ms. Hudson noted the public comment deadline is April 2, 2014. Legislator Greene asked if the deadline period could be extended. Ms. Hudson noted the deadline has been extended a few times. She stated they issued a draft permit in January. She noted the request should be that the negative declaration should be reconsidered. Mr. Shapley stated a draft letter was available on their website. She noted the three month State inspection review is due at the end of April following the public comment period.

Legislator Greene encouraged Ms. Hudson and Mr. Shapley to take their presentation to the Association of Ulster County Supervisors and Mayors. Chairman Bartels noted the Committee could hold a public forum.

Members discussed the choices between a pipeline system and above ground options.

Chairman Bartels stated the Committee could circulate a letter that they could submit before the April 2<sup>nd</sup> deadline. She noted the Committee could also hold a public forum, getting the word out to a broader audience, following up on some of the suggestions

indicated in the presentation (such as reaching out to the Sheriff's department) and coordinating with the Executive's office to ensure they are not duplicating efforts.

Ms. Hudson stated **Riverkeeper** is reviewing the spill response plan. She stated the Coast Guard is reviewing the area contingent plan

Department of Planning Director Doyle encouraged Ms. Hudson to provide her presentation as correspondence to the Transportation Council for their March 21, 2014 meeting.

Chairman Bartels inquired if there was a spill response plan for the Hudson River. Ms. Hudson replied there is an area contingency plan which is put together by the Coast Guard with input from an area committee. She stated Riverkeeper's Boat Captain as well as others serve on the area committee. She stated the spill response plan is a plan that describes how the community would respond to a worst case scenario spill and the worst case scenario spill under the current plan is a spill of refined heating oil by the Verrazano-Narrows Bridge. She noted the problem of an upper river spill response is that there are no assets up river. She stated the Coast Guard is in the process of revising the spill response plan this year.

Legislator Greene spoke about the vision of transitioning to green energy, the peak oil focus of the last years and the use of all the low hanging fruit in these discussions. She stated even without a climate crisis, it is no longer easy or possible to be safe with the extreme methods being undertaken to access fossil fuels. She highlighted the increase in traffic, the past peak of access to safe fossil fuels and the entering a time of extreme energy extraction. She stated there needs to be a new look for the United States, including investing in infrastructure, to get the fuel needed to run the Country. She stated much of this oil is not staying in the Country but is going overseas. Department of Planning Director Doyle clarified the shipments going to the refineries are going overseas or that the oil shipped in the United States are slated for markets here. Ms. Hudson stated crude oil being taken out of the ground in North Dakota must stay here until it is refined. She did not know if refined oil is being exported. She stated the crude oil being shipped from Canada is likely being exported.

Chairman Bartels requested to receive a digital copy of the powerpoint presentation which would be forwarded to Deputy Clerk Barringer for distribution to the full Committee. She stated she would work with Ms. Hudson to coordinate a public forum.

Ms. Hudson gave an update to the New Capacity Zone which was initiated by ISO. She stated the Federal Energy Regulatory Commission (FERC) denied the phase in of the fee increase. Legislator Greene noted the fee would increase in May and that there was widespread opposition.

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**Motion No. 2****Resolution No. 99 – March 18, 2014****Text of Motion:**

**Resolved to approve Resolution No. 99** - Authorizing The Chairman Of The Ulster County Legislature To Execute A Cooperative Agreement With The New York State Department Of Conservation For The Implementation Of Environmental Benefit Projects On The Lower Esopus As Provided For In The DEC Order On Consent - Amending The 2014-2019 Capital Program - Establishing Capital Project No. 407 - Lower Esopus Environmental Benefits Project – Department Of Planning

**Motion Made By:**

Legislator Wawro

**Motion Seconded By:**

Legislator Parete

**Resolution No. 99 Summary:** This Resolution establishes Capital Project No. 407 and amends 2014 – 2019 Capital Program to add Capital Project No. 407, Lower Esopus Environmental Benefit Project for \$290,000.00. The Resolution also amends the 2014 Capital Project Fund to increase Revenue account #H3-0407-2797, Other Local Government Revenue by \$290,000.00 from the NYC Department of Environmental Agency and Appropriation account #H4-0407-2974, Administration Costs by \$290,000.00 for Fish Stocking Program at \$10,000.00, Technical Review Consultant at \$80,000.00, and Stream Management Plan at \$200,000.00. Finally, this Resolution authorizes the Chairman of the Ulster County Legislature to execute a Cooperative Agreement, and any amendments thereto, with the NYSDEC (NYS CA No. D007-0001-11), in order for Ulster County to act as fiscal agent to implement the Environmental Benefit Projects, in the form as filed with the Clerk of the Legislature, or as modified with the approval of the County Attorney.

**Discussion:**

Chairman Bartels stated she received a call from Legislator Loughran. Legislator Parete stated he also raised his concern with the trout stocking plan in Caucus and felt the concerns were answered then. Chairman Bartels stated there was identified \$10,000 for fish stocking out of the \$200,000 program. She stated Legislator Loughran believed the stream management plan was done but she did not have confirmation of this. She stated in a communication with Legislative Clerk Fabella, she learned Legislator Loughran's concern was the only one known. Legislator Greene stated the Lower Esopus Watershed Partnership did work on a plan. Legislator Parete noted these organizations typically get grants to hire people to write the plans.

Legislator Parete thought the engineer had been selected. Legislator Greene inquired as to how the engineers were selected, noted there were a number of good people as well as not so good people in the field, and wanted to ensure the money was being well spent.



She stated she did not obtain the confirmation of the plan for hiring the engineer. Legislator Parete felt the approval of this Resolution would allow an RFP to be issued. Chairman Bartels noted the Resolution indicated the County was entering a cooperative agreement the New York State DEC and would be the fiscal agent.

Legislator Greene stated she was willing to vote for the resolution to move it out of committee but wanted to have answers to the questions regarding the technical consultant selection and the stream management plan development answered.

Deputy Clerk Barringer noted the Lower Esopus Watershed Partnership has a technical sub-committee that was formed to develop the plan and pick the consultant. She noted Department of Planning Director Doyle presented to the March meeting of the Economic Development, Tourism, Housing, Planning, And Transit Committee and the audio of this presentation is available online. Chairman Bartels stated she would make calls to confirm this information.

**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

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### **Old Business: RRA Bonding Resolution - Update**

Chairman Bartels reiterated she spoke with Resource Recovery Agency Executive Board Chair Smith and he indicated the RRA Board had some questions about the bonding. She noted they planned to sit down together to discuss this further.

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### **Old Business: Appointments (Climate Smart Committee)**

Chairman Bartels stated she met with Legislative Chairman Parete and discussed the names the Committee was discussing as it is a Chairman's appointment and he indicated to her that he was comfortable with the names presented. She requested the Committee move forward a recommendation of four names for the five slots with the remaining slot to be filled at a later time. She noted the Chairman would return the appointments in the form of a resolution.

**Motion No. 3**                      **To Forward Appointment Recommendations to the Chair of the Ulster County Legislature for Appointment to the Climate Smart Committee**

**Text of Motion:**                    **Motion to recommend to the Chair of the Ulster County Legislature the following individuals for appointment to the Climate Smart Committee:**

- **Legislator Greene (Energy & Environment Committee)**
- **Legislator Loughran (Public Works & Capital Projects Committee)**
- **Laura Petit (Community/Town Government)**
- **Ron Leonard (Environmental Community/Trout Unlimited)**
- **Business Community (Held For Pending Recommendation)**

**Discussion:**                    Legislators discussed Legislator Greene’s ability to vote on this resolution. Legislator Parete indicated the rules indicate a Legislator must abstain if there is a financial interest in the vote and as there is none in this case, Legislator Greene could safely vote on the resolution.

**Motion Made By:**            **Legislator Parete**  
**Motion Seconded By:**    **Legislator Wawro**

**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

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**New Business:**

- Chairman Bartels stated in response to the Energy Improvement Corporation presentation from last month, she spoke with Legislative Chairman Parete and they agreed the next step would be to hold a stakeholder meeting. She stated she would pull together the County Executive’s office, Legislative Chairman, Majority Leader, Minority Leader and herself. She stated after a working stakeholder’s meeting, they would then present to the full legislature a proposal in a special informational meeting. She invited Legislators to express to her any questions that should be asked at the stakeholder meeting. She thanked Legislator Greene for bringing forward this County policy recommendation. Legislator Greene noted the risk just presented in the powerpoint and the need to be proactive.

- Legislator Greene distributed flyers for the upcoming forum entitled Power Grid Issues in the Hudson Valley: Part II. Legislator Greene noted Ron Leonard has been added to the agenda to give an overview of the current energy situation. Chairman Bartels urged all Legislators to attend this. Legislator Greene stated she would forward a copy of the flyer to Deputy Clerk Barringer to distribute to all Legislators. Legislators discussed the current increase in the power bills which is prior to the New Capacity Zone fee increase coming in May.
- Chairman Bartels reminded all members to forward any agenda items for the next meeting to her.
- Chairman Bartels stated she would circulate a draft letter regarding tonight's presentation to which Committee members can decide to sign on or not. Legislator Greene highlighted the concerns of DEC issuing the negative declaration without looking beyond air and the safety issues. Chairman Bartels highlighted the derailment in Ulster County that could have been a disaster and her experiences with fast moving trains. She expressed the concern with finger pointing and lack of proper oversight.

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### **Adjournment**

**Motion Made By:** Legislator Greene

**Motion Seconded By:** Legislator Wawro

**No. of Votes in Favor:** 4

**No. of Votes Against:** 0

**TIME:** 8:51 PM

**Dated the 4<sup>th</sup> day of March, 2014**

**Krista Barringer, Deputy Clerk**

**Minutes Approved As Amended on:** April 8, 2014