

**ULSTER COUNTY LEGISLATURE
COMMITTEE MEETING MINUTES**

NAME OF COMMITTEE: Government Operations and Environmental Services

DATE: October 5, 2011

TIME: 6:00 P.M.

PLACE: UCOB, Library Conference Room, 6th Floor

LEGISLATORS PRESENT: Deputy Chair Petit, Legislators Belfiglio, Bernardo, Maio, Richard Parete, and Ronk

LEGISLATOR EXCUSED: Chairman Shapiro, Legislators Robert Parete and Zimet

OTHERS ATTENDING: Legislator Gregorious; Rob Stanley, Town of Shandaken Supervisor; Eric Hofmeister, Town of Shandaken Highway Superintendent; Aaron Bennett, UC Department of Environment; William Kimble, Reporter, Daily Freeman; Pete Robbins, Marbletown ELC; Joan Flores, Student, Columbia- Greene; Jorge Talmadge; Victoria Fabella, Deputy Clerk, Legislature

- The meeting was called to order by Deputy Chair Petit at 6:06 PM.
- A motion was made by Legislator Belfiglio, Seconded by Legislator Ronk, to approve the July 6, 2011 Meeting Minutes. All in favor. Carried.

The Deputy Chair gave the floor to Supervisor Stanley.

- Town of Shandaken Supervisor, Rob Stanley and Highway Superintendent, Eric Hofmeister:
Flooding and Stream Maintenance Issues

The Supervisor introduced himself and Superintendent Hofmeister. He said that Chairman Shapiro invited them to come to tonight's meeting to speak specifically about ongoing stream maintenance issues, specifically with the DEC. He said there are 16 miles of stream that have changed course considerably in areas. Mr. Stanley said Shandaken is now at the point where there is so much gravel disposition in the streams that a simple two to three inch storm is flooding areas and breaching levies. Some of the areas in town are DEC maintenance areas where the DEC was contracted with Army Corp of Engineers to remove gravel bars. For the past year, the Supervisor said, there has been an argument about digging out Stony Clove because of gravel bar deposition which has caused flooding since October of last year. The town has dug out the Stony Clove with the DEC's permission with an emergency permit. There is further work that needs to be done on the 16 miles of stream that need to be dug out. It may sound like it is not conducive to environmental concerns, but it has been done for generations in Shandaken. The DEC has maintained that they would like to see the stream maintain a natural course but at this point, in Shandaken, the stream has channelized. Supervisor Stanley said that the Ulster County Sheriff's Department can attest that the stream jumped almost a quarter mile, went right through a residential area, and caused The Sherriff's Department to risk life and limb doing water rescue in about 12 feet of water during Irene.

Supervisor Stanley said at this point, what needs to be addressed is the DEC permitting process. He said it is an astringent permitting process. The Town of Shandaken understands the concerns about trout spawning and they are certainly not trying to destroy streams and kill fish. In the Town's estimation, not only was there a large amount of

physical damage done, but the damage environmentally by all of the pollutants that were washed into the stream and reservoir are more harmful in the long term than doing a mitigation effort with having an excavator in a stream for one week that would rectify a lot of the situations in the residential areas. The Supervisor asked for the Committee's support in getting the processes cleaned up. He also said that he knows the DEC had applied for funding through the Army Corp of Engineers to dredge out the areas they were supposed to maintain, knowing that it was putting stress on those dikes. While waiting for the funding and a cost-benefit analysis, the DEC could have gone to local contractors who would have gotten the work done quickly and for free because they would have taken it simply for the material involved. The Army Corp eventually said it wasn't sufficient for them to fund it.

Mr. Stanley also said they have an issue with debris piles that are developing. The DEC says the debris will float downstream with the next flood/event and will wash away. The Supervisor said nothing washes away, but instead it collects somewhere, usually in the Town's hamlets. This diverts the stream right into the hamlets. There are also root balls that are anywhere from 9 feet to 12 feet around. They can't simply be put in a chipper because there are rocks and debris stuck inside of them. New York State requires a special permit to remove root balls. There is also an issue with logs in streams. There are loggers willing to take the logs, and chop them up to be used for heating systems. The Supervisor said he is talking about not only protecting homes and lives in Shandaken, but this is a way to increase the economy, increase jobs, and keep things local. For generations, these streams have been dug out and gravel bars removed and the aquatic/biotic life came back. At a meeting in 1997, the DEP said the water quality in Shandaken was the best water quality in the world. The Supervisor said that was with the Town digging out streams, having equipment in the streams and taking care of these types of problems themselves.

Supervisor Stanley stressed that the DEP has been very helpful to Shandaken. Ulster County Soil and Water has been a tremendous asset. The problems lie with the DEC only.

Mr. Stanley said he also wanted to discuss the flood mitigation plan for the County. The preliminary engineers who have looked at it from the DEP have said that it more addresses low-lying, flat-lying areas, rather than mountainous terrain. On the mountains, as attested with the washout on Oliverea Road, there is a 55 ft length of road that is absolutely missing and the gap is 27 feet deep. There is nothing that can be done to save that except build a bridge. The streams need to be cleaned out ASAP. There is worry about another flood coming some time in January, maybe March. The Town generally goes through a thaw period in mid January. There have been tremendous floods in the past during this time. It cannot happen again.

The DEC has said they are cutting off emergency permits as of October 8, 2011. Work that is planned can go on until October 30th. Otherwise, all work is to be postponed until March. There is no way all of the situations in Shandaken can be addressed in this timeframe. Secondly, the DEC is working on their campground that will not open until next spring instead of using their resources to dig out levies by people's homes.

Highway Superintendent Hofmeister clarified that the dredging process discussed by the Shandaken officials involves shaping the channels properly using science behind it. It is not just going in and carving a clear path so the water can flow through. The Ashokan Watershed Stream Management Program, the DEP and UC Soil and Water are all working with the Town. The stream has been moved in two different places where it had moved probably 300 feet and was running into the road. The channel was reshaped and restored to where it was supposed to be. This was done with an emergency permit. Normally, the DEC would never allow this because of concern for fish habitat. However, there is no fish habitat in shallow, flat portions of the channel. Mr. Hofmeister gave several accounts of instances where the DEC has hindered restoration efforts as well as made them cost prohibitive. Supervisor Stanley commented that what was done at Stony Clove was not done with an excavator in the water. They built up platforms for the excavator and dump trucks. The only thing actually in the water was the shovel of the excavator. There is minimal disturbance.

Mr. Hofmeister said these problems exist in Region 3, and other regions do not experience the same complications. He commented that the Region 3 Director is part of the problem.

Legislator Gregorius explained that he has witnessed the devastation in Shandaken first-hand. He said it is real and it is serious. He has spoken with Chairman Shapiro and since both he and the Chairman represent the area being discussed, they thought it was important for Legislator Gregorius to attend tonight's meeting since the Chairman could not. Legislator Gregorius said that this is important and the Committee should decide if and how it would like to proceed to facilitate progress. He asked, as long as the cleanup is done responsibly, which he believes it is, is there a way to get the government out of the town's way? How can the Committee help save the people, their property and their businesses? How can it be that in one jurisdiction cleanup is allowed and in another it is not?

Legislator Bernardo believes what she's hearing is dead on. She said she didn't want to speak for the Senator, but having read the news, Senator John Bonacic has personally called for Mr. Janeway's termination. Legislator Bernardo has heard other countless examples of other regions operating differently, and specifically Region 3 officials telling people, "This is how we do things." She proposed sponsoring a memorializing resolution asking for Mr. Janeway's removal. Although she doesn't know if it would help, she said it seems to be necessary.

Superintendent Hofmeister said Mr. Janeway has no education in anything to do with streams. He is purely an environmentalist. Mr. Hofmeister has lived in Shandaken most of his life and he said the streams have gotten worse and worse since the State instituted their permitting process. Superintendent Hofmeister said when the "bad people" were in the streams "doing damage," the streams were in much better shape than they are now. They are currently in bad shape. They are ruining houses and roads and they cannot get any better by leaving them natural. There were probably 30 houses lost, damaged, completely knocked off their foundations, moved, taken down or in the process of being taken down. There are probably 20+ more that will be bought out by FEMA's repetitive loss program. Approximately 50- 60 homes will be coming off the tax rolls in Shandaken. That's a loss for the County too. We are losing residents, tax, and income for our entire area.

Legislator Bernardo said there is a similar situation in her town. The County DPW took her to an area that was causing considerable damage to residents and property. There has been thousands of dollars in road damage to the County on County Rte. 6. DPW said they could stop the damage if the DEC would allow them to make a small fix.

Mr. Hofmeister explained the difficult process he will have to go through to get permits for the 30 or 40 remaining jobs throughout the Town.

Deputy-chair Petit said she knows that the Town has been working with Soil & Water and the DEP, but, she asked, have they put anything in writing? Maybe if you partner with them as a municipality and two strong organizations, you could twist the arm of the DEC a little bit.

Supervisor Stanley said they have partnered together, there have been contracts and those organizations have been strong proponents for them. He said that what they are looking for tonight is to stress that there needs to be a change in the policies of the DEC overall, as well as the policies for this specific region. The Coalition of Watershed Towns is working on stream management program monies. They are currently working on proposing to the DEP to take some of the monies from the Land Acquisition Program and put them into the Flood Mitigation Plan. In their estimation it comes down to water quality. Instead of buying 20 acres that sit high on a mountain top, it would be better to use the money for flood mitigation to save the water going down Main Street in Phoenicia and not have the oil tanks and debris go back down to the reservoir affecting water quality. Lastly, the Supervisor is concerned about property loss. He said FEMA may not do a buy-out unless a property is considered a "repetitive loss property." Some of the properties are in a flood plain and without digging out the gravel bar, we know they will be flooded again and become a repetitive loss property. Some people are calling up the DEP and saying, "I'll knock down my house if

you want to buy my property." The Supervisor said Shandaken is nearly almost 90% publicly owned. He doesn't want to see 95% publicly owned. They will slowly depopulate his town. He said there is a fear that we are being forced out selectively through environmental processes by the DEC and DEP. Again, he applauded the DEP for their very recent efforts in regard to flood mitigation plans, but he said these issues must be addressed.

Legislator Bernardo said the Legislative Body works via resolution. She asked Supervisor Stanley if he would like the Committee to sponsor a resolution calling for the termination of the Region 3 DEC Director. The Supervisor said he would be agreeable to that.

Legislator Belfiglio said the DEC must have regulations they have to follow. It is just not one king telling you that you can't do what you want to do. He said he understands it may appear that way, but he's unsure if a resolution calling for someone's termination will solve the problem.

Supervisor Stanley said there is an overall DEC policy, and that policy is not being used equally in each region. He knows this for certain because he has personally visited other regions and has seen what they are allowed to do. Superintendent Hofmeister gave specific examples of the DEC making things unnecessarily difficult in Region 3: writing in a public notice that a particular project in Phoenicia was going to fail; combining two requested permits for small jobs into one, therefore making the project cover more footage and requiring it to go out for public notice. Mr. Hofmeister said per regulations, these things didn't need to occur as they did. It was just Region 3 throwing its weight around.

Legislator Bernardo talked about the AVR project in Kingston where the developer was told that "x" septic would be required and the developer moved forward putting \$10 million into the project. All of a sudden they were told they needed a bigger capacity, causing the City of Kingston to spend between \$3 and \$4 million on a septic treatment plant. This was all at the whim of the DEC.

There was further discussion about the difficulties in Region 3 and the possible ways the Shandaken officials can get help with addressing the difficult DEC permitting processes. Legislator Parete asked if State officials have gotten involved to urge Albany to make changes. Supervisor Stanley said John Bonacic has been involved and any promises for cooperation that came about because of his involvement ended up being short lived on DEC's end.

Legislator Gregorius suggested a public hearing involving all towns. He thinks if all the towns join together it may have more impact.

Legislator Bernardo said this is not a new issue. For her, the two guests at tonight's meeting are the straw that broke the camel's back. She has heard countless stories about the Region 3 officials and the problems that people across the County have experienced. She believes she would hear the same stories at a public hearing. She said that the Governor supervises the DEC officials and they serve at his pleasure. She added that the taxpayers are paying to have this Region 3 official make our lives miserable. Legislator Bernardo believes it is important to send a strong message to say we are not happy with the performance of this individual. It is hurting economic development and putting people's lives and property at risk.

Although Supervisor Stanley agrees that there should be a change in the management personnel for Region 3, he suggested maybe softening the language in the proposed resolution to not mention Mr. Janeway's name specifically. He said there are policies that have been implemented by the Director that need to be changed and that is the message the Supervisor would like to get across.

Legislator Parete seconded Legislator Bernardo's motion for the Committee to sponsor a resolution, but agreed the language used should be amended from what was originally proposed. He added that the State doesn't listen to

officials on the County level. If the problem was with a County department then Legislators could easily fix it because the Legislature funds the County departments. Legislator Parete said Kevin Cahill and Senator Bonacic are the guys that approve the funding for those departments and approve their jobs, and if they can't rally and get support in their membership and their chambers then it will certainly be difficult for the County Legislature.

Supervisor Stanley said to remember that Region 3 is the only problem. The reps in Albany may not jump on board with this because the officials in their DEC Regions are not a problem.

Legislator Bernardo said the language in the resolution could propose a leadership change in Region 3 because of the roadblocks that are being put in place affecting economic development and County workers who need to get jobs done. There is an unreasonableness with the leadership in Region 3 that needs to change.

Legislator Belfiglio asked if anyone has reached out to Joe Martens, the DEC Commissioner. Supervisor Stanley said when the Commissioner came to Shandaken himself, he was very responsive and granted permits with no problems. Mr. Hofmeister said that they were leery about going directly to the Commissioner because he doesn't want to face any retaliation since Region 3 already makes it so difficult to get permits now.

Deputy-chair Petit said there is a motion and second on the floor. There was some further discussion about the language that will be used in the resolution. The motion is for the Committee to sponsor a resolution calling for policy reform in Region 3 and the evaluation of leadership in the Region, including disciplinary action up to and including termination should it be necessary to rectify the problems. **Adopted 5 - 0, with one abstention, Legislator Ronk.** (Legislator Ronk deals with Region 3 frequently at his place of employment.)

Legislator Belfiglio suggested writing a letter to the Governor asking him to address this issue. The Committee agreed.

Legislator Ronk motioned that the Committee sponsor resolutions requesting extensions of the emergency authorizations for emergency operations in response to Hurricane Irene and Tropical Storm Lee, as was done in Delaware County. (See handout: Letter from Dean Frazier, Commissioner of Delaware County Dept. of Watershed Affairs and copies of Delaware County Resolution Nos. 136 and 137 of 2011) The resolutions will be prepared immediately and submitted as late resolutions for this month's Legislative Session. Seconded by Legislator Parete, with all in favor, Carried.

- Appointments to Climate Smart Committee

Deputy Chair Petit asked that the Committee Members think about who they may want to recommend for appointment to this Committee, specifically a member of an environmental group.

- Appointments to Fish and Wildlife Board

The Committee Members are unsure of the particulars for these appointments. Legislator Parete served on this Board and spoke favorably of his experience. He said there are three appointments and one alternate from each County; one Legislator appointee, one sportsman appointee and one landowner appointee. Legislator Parete said Bill Wilklow, from the South end of the County, served for many years as the landowner appointee. Legislator Parete said all the County appointments from the Region would get together and have dinner. But when the State had budget cuts they cut out the dinners. He said it was a great group and Ulster County should definitely be represented. He recalls their main concern was access to more areas for hunting and fishing.

The Committee requested that the Deputy Clerk obtain more information regarding these appointments for further discussion at the next meeting.

- New Business

Stone Ridge resident Pete Robbins introduced himself and said he wanted to inform the Committee that he is working on a plan to make ethanol out of food waste. He said we cart tons and tons of organic food waste off to the landfill, he believes 400 miles away, causing CO₂, energy and money. However, there is real potential to turn it into something that is useable. Ethanol can be used to power microturbines and create electricity. Vehicles can be run on it. The demand for ethanol is going up. He said ethanol made from corn is questionable. There is not a great yield. It is, however, economically viable using corn. When using food waste, the margin of profit is a lot higher. Mr. Robbins is looking at this as a community benefit, as it lowers CO₂ and keeps money local.

Legislator Parete asked where Mr. Robbins is trying to develop his concept. Mr. Robbins said originally he was interested in Tech City. This started when he went on a tour of farm-to-table co-packers and discovered that they were overwhelmed with their waste. Initially Mr. Robbins was thinking of compost, but then moved to ethanol. Besides the co-packers, there is Hannaford's and ShopRite and then there are food processors, which is another source of feed stock for distillery. Ethanol from food waste is fermentation, a simple process that people have been doing for ages.

Deputy-chair Petit asked if this has been done before. She has heard of ethanol from corn, but not from food waste. Mr. Robbins said there is a company in Rochester that is doing it. For months he has been trying to contact them by phone and e-mail but has been unsuccessful. Mr. Robbins has been dealing with David Bloom on this project. He is the "guru" and has been doing this since the 1980's. He has a book, Alcohol Can Be a Gas.

Mr. Robbins said he just wanted to make the Committee aware of what he is doing and is looking for allies. He is not asking for anything further at this point, as he does not even have a team together yet.

- Motion to Adjourn:

The meeting was adjourned at 7:27 P.M. with a motion by Legislator Ronk, Seconded by Legislator Maio, with all in favor, Carried.

Respectfully Submitted,

Victoria Fabella, Deputy Clerk, Ulster County Legislature