

Meeting Minutes
Laws & Rules Committee
July 7, 2008

In attendance:

Committee members:

Gary Bischoff, Chair	Susan Cummings, Deputy Chair
Jon Decker	Kevin Roberts
Hector Rodriquez	Brian Shapiro
Legislator James Maloney was excused	

Also:

Legislator Susan Zimet
Board of Elections Commissioners John Parete and Thomas Turco
County Attorney, Joshua Koplovitz

Agenda:

Approval of minutes of June 9, 2008 meeting.

BOE Report – Commissioners Parete and Turco

Resolution – Requesting transfer of funds from contingent account for payment to the NYS Office of General Services – the balance of the county’s share of new voting machines and supplies for such machines – amending the 2008 Ulster County Budget – Board of Elections

Motion to move forward toward adoption of Section 18,
Indemnification Law. Report – County Atty Joshua Koplovitz

Ethics Law

Chairman Bischoff called the meeting to order at 6:02 pm

The requested transfer of \$19,001 from the contingent account for payment to the NYS Office of General Services pays the balance of the county’s 5% of the cost of new voting machines and supplies. BOE Commissioners reminded the Committee that the purchase of 108 machines had been mandated, with no options except which of two machines to choose. Ulster chose the Image Cast (vs. ES&S) because it had already passed 85% of certification requirements and was also chosen by 55 other counties in NYS. Image Cast takes an image of each ballot, providing secondary security, along with the lockbox that collects each paper ballot.

BOE Commissioners Turco and Parete told the Committee that until today the State had only certified the new machines for “Plan B,” whereby each polling site in the November ’08 election would have one new machine fully accessible for any voter with disabilities.

Since the machines have been certified only as ballot marking devices, but not yet as scanners/tabulators, all votes collected by the new machines in November must be hand counted.

As of today the State has approved a limited number of polling sites and would assist Ulster County's implementation of "Plan A," whereby the new machines would be used by ALL voters (where all votes would be hand counted). Since all counties will be required to implement Plan A next year, such "parallel testing" of the machines before then is highly advisable and would be of great benefit to Ulster County as well as the entire state, and so the Commissioners are considering it.

Chairman Bischoff expressed concern about a letter to the State from the League of Women's Voters questioning the wisdom of using new machines in November's Presidential Election.

Commissioner Parete responded that in fact some local League of Women's Voters have expressed to him their support of Plan A.

Commissioner Turco stated that the above-mentioned letter specifically challenged the integrity of the new machine as a scanner/tabulator, which is exactly what "parallel testing" at a few polling sites would troubleshoot, while also ensuring a hand counted tabulation of votes at those sites. He emphasized that it would be a far greater challenge to wait until next year's more complicated ballot to implement Plan A county-wide / state-wide.

Lengthy discussion ensued. Susan Zimet read from two recent letters to the State from Nassau and Oswego Counties, withdrawing their previous offer to implement Plan A in November. Nassau's primary concern was that 80% of 44 new machines received have "significant operational flaws." Oswego rejected Plan A for November since the State had offered no assistance in implementing it.

Commissioner Turco responded that unlike Nassau County, 10 of Ulster's 11 new machines received were tested and found to be in good working condition. Significantly, the Vendor today offered substantial support and assistance to Ulster County if Plan A is launched at several test sites, since we would now be the only County implementing it this fall. Both Commissioners reiterated the importance of such testing to the integrity of successive elections when the new machines will be used across the board.

Chairman Bischoff commented that many officials in our County had pushed hard for optical scanning with a hard copy backup and were gratified to have achieved this. He also advised that, as an electronics engineer, he learned that the more testing, the better with such systems.

MOTION by Legislator Decker, 2nd by Legislator Rodriguez: To do as much as can be done toward implementation of Plan A for the November 2008 election.

MOTION PASSED UNANIMOUSLY

County Attorney Joshua Koplovitz recommended adoption of Section 18 of Public Officers Law, an Indemnification Law which most New York counties have in place. This would permit our county and local municipalities to provide for indemnity and attorney fees if a public official (e.g., county legislator or department head) is sued in connection with official responsibilities, in cases where there is no insurance (e.g., public officials' liability) to cover fees and where a conflict of interest might prevent a county or town attorney from representing the official. (The Exclusion would be if the County brings a case against an employee.) Currently, in the absence of this law, a Special Resolution (requiring 17 votes to pass) would be needed in each and every case. Adoption of Section 18 would prevent unfairness: for example if a minority legislative member needs outside representation but there are insufficient votes to pass a Special Resolution to cover fees.

MOTION by Legislator Decker, 2nd by Legislator Rodriguez: to have clerk set the date for a public hearing in order to move Indemnification Law forward.

MOTION PASSED UNANIMOUSLY

Brian Shapiro of the Board of Ethics requested that a motion be made to vote within 30-60 days to adopt the Code of Ethics which have been developed over the past three years, in order not to deliberate endlessly. Legislator Zimet agreed with Mr. Shapiro that any further delay in voting on the proposed Ethics Law would deprive the County of the protection such a law is meant to provide. She also pointed out that much resistance to passing the proposed Code is probably due to misunderstandings, which could be clarified in a meeting of the Board with this Committee.

MOTION by Legislator Shapiro, 2nd by Legislator Rodriguez: to set a meeting with the Ethics Board and this Committee, along with the Town Attorney, tentatively for Monday July 28 at 6 pm.

MOTION PASSED UNANIMOUSLY

Meeting Adjourned at 7:45 p.m. by unanimous consent.