

**ULSTER COUNTY LEGISLATURE  
COMMITTEE MEETING MINUTES**

**NAME OF COMMITTEE:** Public Works & Capital Projects Committee  
**DATE & TIME:** October 3, 2011 @ 7:00 PM  
**PLACE:** Library Conference Room, 6<sup>th</sup> Floor, County Office Building

**LEGISLATORS PRESENT:** Chairman Dean Fabiano, Deputy Chairman Peter Loughran, Legislators Roy Hochberg, James Maloney, Jeanette Provenzano, Kevin Roberts

**LEGISLATORS EXCUSED:** Legislator Frank Felicello

**OTHERS ATTENDING:** Dennis Doyle (Director, UC Planning Department), Roberto Rodriguez (Commissioner, Social Services), Barbara Sorkin (Deputy Commissioner, Social Services), Lynn Carlson (Social Services), James McKoy (Ulster County Family Violence Unit), Richard A. Anthony (Attorney representing Ulster Savings Bank), Joan Eck (Ulster Savings Bank), Betsy Riess (Ulster Resident)

---

**MEETING CALLED TO ORDER @ 7:00 PM**

**APPROVAL OF THE SEPTEMBER 7, 2011 MINUTES:**

Motion offered by Legislator Maloney, Seconded by Legislator Loughran, All in Favor, Carried.

**RESOLUTIONS:**

- 1) **Resolution Draft No. 1009, October 18, 2011** - Approving (1) The Shovel Ready Fund Application From The Town Of Marlborough For The Establishment Of A Town Road Improvement Project Along Riverside Drive Highway, (2) The Disbursement Agreement Between The Ulster County Development Corporation And The Town Of Marlborough, And (3) The Delivery Of Project Funds And Administrative Fee To The Ulster County Development Corporation; And Establishing Capital Project No. 353 And Amending The 2011-2016 Capital Program And The 2011 General Fund And Capital Fund Budgets Accordingly

Motion offered by Legislator Maloney, Seconded by Chairman Fabiano, All in Favor, Carried.

Discussion: None

- 2) **Resolution Draft No. 1012, October 18, 2011** - All Ferrous And Non-Ferrous (Precious) Metals Policy For The County Of Ulster

NO VOTE TAKEN / NO SUPPORT

Discussion: Chairman Fabiano asked to have his name removed from the Resolution. He said that he received a call from Commissioner Sheeley with regard to the Resolution and after listening to his comments and concerns, no longer supports this Resolution.

**3) Resolution Draft No. 1013, October 18, 2011 - Authorizing The Chairman Of The Ulster County Legislature To Execute A Lease Agreement With The American National Red Cross For Office Space At 21 O'Neil Street, Kingston, New York For The Purpose Of Establishing A Child And Family Advocacy Center - Department of Social Services**

Motion offered by Legislator Maloney, Seconded by Legislator Provenzano, All in Favor, Carried.

Discussion: Commissioner Rodriguez stated that four or five months ago he learned that the American Red Cross Building on 21 O'Neil Street in Kingston was being vacated by the American Red Cross. This presented the best opportunity, requiring the least renovations and is AVA ready. They negotiated a Lease with the American Red Cross for five years. The Family Violence Unit has been in existence since 1994, and since that time it has evolved into one of the better multi-disciplinary teams dealing with Child Sex and Physical Abuse. The Lease is one in ten standards required for them to become a certified Child Advocacy Center. They have already reached the other nine standards. The Lease is the last piece. This will become a comprehensive center. All needs will be handled under one roof to minimize child trauma. He explained that children are extremely delicate victims. The Unit is headed by Special Investigator James McKoy. This is a five year grant.

Provenzano: Q/Besides the rent, is the County responsible for Maintenance? A/See Below

Operating Charges / The Base Rent includes all property taxes and City of Kingston water and sewer assessments. Tenant shall arrange directly, and pay directly for all gas and electric usage, and heating fuel.

Tenant's Obligations for Maintenance & Repairs / (a) Tenant shall keep and maintain the Premises and all fixtures and Tenant-owned equipment located therein in clean, safe and sanitary condition and in compliance with all legal requirements. (b) Tenant shall take good care of the Premises and make all repairs required by this Lease. (c) Tenant shall not cause or suffer waste or injury to the Premises. (d) Tenant will keep all sidewalks, steps, driveways and parking lots used in connection with its use of the Premises, shoveled, plowed, or otherwise free from accumulation of snow and/or ice, including the application of sand and/or salt as is reasonably necessary. Tenant will keep the grounds of the Premises landscaped and manicured and in a presentable manner. (e) Tenant shall promptly repair any injury, breakage or damage to the Premises or to any other part of the Premises caused by any act or omission of Tenant or any of Tenant's invitees, agents, employees, subtenants, assignees, contractors or other persons who may have entered the Premises on account of Tenant's occupancy thereof. (f) The maintenance, repair, and/or replacement of the following shall be the sole responsibility of Tenant: (i) all furniture, fixtures and equipment of Tenant and (ii) any alterations to the Premises made by Tenant.

Landlord's Obligation for Maintenance & Repairs / (a) Landlord shall keep the exterior walls, load bearing elements, foundations, pipes and conduits, roof, and structure of the Premises, in good operating condition and shall make all required repairs thereto. Landlord shall keep all water, sewer, plumbing, electrical, and HVAC systems in working order and shall maintain, repair, and/or replace same as needed. (b) Landlord shall maintain the Premises, including but not limited to the parking lot, landscaping and grounds, in good and safe condition, except as noted in paragraph 8 above.

Hochberg: Q/Any new staff? A/No, staff is being moved there. The idea is to put everybody under one roof so the child can stay in one place. Q/How many employees? A/Twelve. Q/Is there adequate parking? A/Yes.

Fabiano: Q/Has the site been approved by the State? A/Yes.

**4) Resolution Draft No. 1015, October 18, 2011 - Authorizing The Chairman Of The Ulster County Legislature To Execute A License Agreement With Hudson Valley Housing Development Fund Company, Inc., To Cross County-Owned Railroad Property**

**NO VOTE / ADDITIONAL INFORMATION REQUESTED**

Discussion: Dennis Doyle, Director of the Ulster County Planning Board stated for the record that his attendance at tonight's meeting is at the request of the Public Works & Capital Projects Committee. He explained that the proposal is for a 58 unit, age restricted facility, located behind the Holiday Inn with access through parcels that will require Ulster County to issue the ability to cross, with respect to the Ulster & Delaware Railroad. The parcel was presented to the County Planning Board in two separate actions, (1) in January (2011), with request to a Site Plan Presentation of the parcel and project and (2) in March (2011), for a Variance Request. Dennis handed out two letters from the Ulster County Planning Board. The first letter was to Suzanne Cahill, City of Kingston Planning Director, dated 1/5/2011, with regard to the Kingston Meadows Senior Residence - Site Plan Review and Subdivision. The second letter was to Larry Brigati, Chairman of the City of Kingston Zoning Board, dated 3/2/2011, with regard to the Kingston Meadows Senior Residence - Area Variance. He stated that to date, the applicant, in conversations with the City Officials, is trying to address some of the concerns of the County Planning Board with respect to the project. The Board would expect to see this project back in front of them once those concerns have been addressed. To date, this has not occurred.

Fabiano: Q/Since the Report, dated 3/2/2011, has anything taken place? A/Explained the Referral Process.

Doyle: The Referral Process was established under the Charter, as well as General Municipal Law. It allows the County Planning Board to review certain zoning and planning actions within Communities and to make recommendations relative to those actions to local boards. In order to over-rule recommendations of the County Planning Board (for disapproval or required modifications), the majority, plus one, vote of the Board is required. In addition, the Board's requirements would entail the submittal of a full statement of all the material being considered by the local planning board, with respect to making their determination under the State Environmental Quality Review Act (SEQRA). It is his understanding, that the City has not made a determination with respect to SEQRA and is still awaiting information from the applicant to make that determination. That would mean that the County Planning Board likely did not have a full statement when it was reviewed in the past and that there will be responses to the County Planning Board's recommendation relevant to this project. They anticipate seeing it back in front of their Board once those responses are addressed.

Loughran: Reiterated to the Committee what he stated at last month's Committee Meeting. He does not believe that it is an appropriate spot for the type of development being proposed. He stated that it is a swamp land and a flood plain. He referred back to the BRC Project, that after spending millions of dollars, the water came up through the floor which created a mold problem. He would agree to a retail outlet, but not to senior citizen housing.

Provenzano: Stated that she can appreciate how Legislator Loughran feels. Q/Why is the Committee reviewing this before the City of Kingston has made a final declaration.

Doyle: The need for access is going to be critical to the approval of the Local Planning Board. As it currently stands, given the ownership of the railroad by the County, they need the Legislature's approval to cross. He stated that it puts the applicant in a difficult situation because the Local Planning Board probably will not approve the project unless access is granted first. He stated that the City of Kingston has not conducted a coordinated review with respect to the County, which means that in issuing this, any

License that the Committee considers, the Committee will have to complete and make their own finding with respect to this project in terms of its Environmental Impact. In his opinion, that would be the first thing that the Committee needs to do. It needs to be understood that the Committee is issuing an approval of sorts for this project to move ahead and that the Committee would be subject to the requirements of SEQRA.

Provenzano: Q/With regard to the access request, could it be done, but be contingent upon the City's and County Planning Boards approval? A/Doyle/Stated that the project does not need the Planning Boards approval. Legislator Provenzano stated that there have been many projects that the County did not approve, but that the City of Kingston got the majority vote and did them anyway. Mr. Doyle agreed.

Hochberg: This Committee's only interest, at the moment, is the crossing of the railroad and that the project is incidental. The project and the project's access have been described. He stated that apparently, this crossing was previously approved for a different purpose years ago. He sits on the Railroad Advisory Board and that was one of the points of discussion and that there was a second crossing approved but that it was never used or followed up on as well. He said that to his knowledge, the Committee does not make decisions relative to what Planning Boards approve or disapprove.

Fabiano: Stated that with that being said and after last month's discussions with regard to this subject, he contacted the County Attorney and discussed those concerns. He asked if before making a decision, with regard to the crossing, should the Committee take into consideration the UC Planning Boards report/recommendations. She said absolutely, the UC Planning Board's report should hold a lot of weight with regard to the Committee's decision. He stated that he has given this project a lot of thought, and he does not particularly agree with it, he does not feel that it is appropriate for Senior Housing. Why would you vote to give an easement if you don't agree with the project?

Hochberg: Stated that he understands that we all have our own opinions, but that we should also rely on the experts opinions. He said that up until this point, as far as the City of Kingston goes, the project is and continues to progress. Suggested adding language to the Resolution that states, the easement is contingent upon final approvals of the project.

Loughran: Reiterated about his early comments with regard to the BRC project. He stated that with regard to "expert opinions" that many Engineers worked on that project and still, millions of dollars later, water came up through the floor.

Provenzano: Believes that this is a Home Rule request and that is how she is going to address it. She does not understand how someone's request for an access over the Railroad, brings in the conversation that someone personally disagrees with the project. She does not agree with that logic.

Doyle: Stated to the Committee that you are not just approving an access, you are approving a permit that allows the project to proceed. What that means under SEQRA (he recommends that this question go back to the County Attorney), is that you cannot ignore the project. The project is part of what you need to determine a finding for. Since the City has not decided to conduct a coordinated review, you as a Committee, have to make a separate Environmental finding, which in allowing the access, the project does not have a significant impact on the Environment. That is what is required under SEQRA. The Legislature has to make the decision because the Legislature is the Agency taking the action. In his opinion, the County has an absolute obligation to make that finding. If the City had a finding, then you could say that you have reviewed their findings, that you understand the findings, and that you agree with the findings.

Provenzano: Q/Why has the City of Kingston not made that finding? A/Doyle/It is his understanding that the City is waiting information.

Maloney: Refers to the letters dated 1/5/11 & 3/2/11. He stated that the first letter was a complete disapproval, and after reading them both several times, asked if the March letter was a resubmission. Mr. Doyle said no, they are two different zoning actions.

Maloney: Q/Would granting access across the Railroad have a significant impact on the Environment? That is the question that is before the Committee. A/Doyle/You need to get the answers with respect to everything being proposed. It is not a simple answer.

Doyle: Stated that a couple of things come to mind, with regard to how it was proposed to his Board, there was only one way in and out. There may be alternatives to that one way in and out, but they have not seen those alternatives.

Maloney: That's a Planning Board issue.

Doyle: But it is an issue with respect to this Legislature in terms of its decision on whether to allow this project to proceed.

Fabiano: The Engineer from the project who spoke at last month's meeting stated that there was no other alternative with regard to access.

Doyle: Does not necessary agree with that, there are always alternatives. One that was discussed was that there are two Railroads that come together at that location; one is the Ulster & Delaware (which the County owns), the second one is the old O&W Railroad (which the applicant owns to a certain extent up until the project). The thought was to use the O&W Railroad right-of- way to get to Washington Avenue as an Emergency access point. So there are alternatives. There are some Storm Water issues, Wet Land issues, Design issues, associated with that. Those are questions that need to be addressed.

Doyle: The Board stated (Letter Dated 3/2/11 - Degree of Variance) that this request further demonstrates to the Ulster County Planning Board how inappropriate and unsuitable the site is for a project of this scope and magnitude.

Doyle: If there is a decision to move forward, he would like for there to be a discussion about how the License is granted. The Planning Department is in the process of doing design work that would look at this area, particularly the O&W Railroad right-of-way as a potential Rail Trail. He said that there could be mutual advantages to utilize a portion of the right-of-way, from the applicant (Ulster Savings Bank) for Rail Trail. Then look at how that access works out across the Rail Trail, particularly as it moves under the Thruway, otherwise they may find themselves blocked with the ability to install a Rail Trail. This would connect Kingston to the Rail Trail that already exists on 209. If grants of Licenses take place he would like consideration of a quid pro quo that says as a County, access for Rail Trail purposes would be granted. There may be advantages to the applicant in this if they call that section, which is being proposed as an emergency access road, a trail. Trails are exempt from Storm Water regulations. The trail could function as their emergency access road because providing Storm Water protection for that portion of an emergency access road with wet lands on both sides of it are going to be extremely difficult.

Provenzano: Asked Chairman Fabiano if he could reach out to the City of Kingston Planning Board so that the Committee could have an understanding of where they stand with regard to the project. She would like for him to ask if it is absolutely essential for the legislature to approve the crossing before anything can

be done. She said that she feels at a disadvantage that she has not heard from the City of Kingston Planning Board yet.

Doyle: Stated that he speaks to the City Planning Board regularly to get updates on all projects. The City's update is that they continue to await additional information from the applicant.

Final Decision: The Committee agreed to invite the City of Kingston Planning Board to attend next month's Committee Meeting on November 7, 2011 @ 7:00 PM. Mr. Doyle stated that he would try to set up a meeting prior to the November 7<sup>th</sup> Meeting, and invite all parties involved.

Hochberg: Asked Mr. Anthony about design work with regard to the Rail Trail. Mr. Doyle stated that he has had discussions but has not seen any design work yet with regard to the Rail Trail.

Mr. Anthony: Agrees with Mr. Doyle, that a coordinated meeting would be very beneficial to all parties, including the Rail Trail people. He believes that everyone needs to work together. He stated that if the current proposed transaction falls through because they cannot get approval, the Bank would always be willing to talk to the County about an extension to the Rail Trail.

**OLD BUSINESS:** Kingston Meadows Project - See Above

**NEW BUSINESS:** None

**PUBLIC WORKS UPDATE:** None

**Motion to adjourn @ 7:50 PM**

Motion offered by Legislator Loughran, Seconded by Legislator Provenzano, All in Favor, Carried.

**Respectfully submitted,  
Tammy Wilson, Senior Legislative Employee**