

**ULSTER COUNTY LEGISLATURE
JOINT COMMITTEE MEETING MINUTES**

NAME OF COMMITTEES: Public Works and Capital Projects and Government Operations and Efficiency

DATE: September 13, 2010

TIME: 6:00 P.M.

PLACE: UCOB, Library Conference Room, 6th Floor

LEGISLATORS PRESENT: Public Works and Capital Projects Committee Members: Chairman Dean Fabiano, Deputy Chairman Peter Loughran, Legislators Roy Hochberg, Jeanette Provenzano, and Kevin Roberts

Government Operations and Efficiency Committee Members: Chairperson Terry Bernardo, Legislators Mary Beth Maio (arrived at 6:09 PM), Laura Petit (arrived at 6:06 PM), and Kenneth Ronk

LEGISLATOR EXCUSED: Public Works and Capital Projects Committee Members: Legislators Frank Felicello and James Maloney

Government Operations and Efficiency Committee Members: Legislators Michael Madsen, Brian Shapiro and Deputy Chairperson Susan Zimet

OTHERS ATTENDING: Tom Kadgen, LOWV; Kenneth Gilligan, Majority Counsel; Lenore Ridgway, LOWV; Fawn Tantillo; Hugh Reynolds, Kingston Times; Michael Novinson, Times Herald-Record; Paula Sirc, Shawangunk Journal, Patricia Doxsey, Daily Freeman, Victoria Fabella, Deputy Clerk, Legislature, Tammy Wilson, Sr. Legislative Employee

- The meeting was called to order by Legislator Fabiano at 6:00 PM.

Legislator Fabiano told the Committees that he and Legislator Bernardo had been approached a couple months back by Tom Kadgen regarding a Legislative Capital Project Oversight Committee. Tom served on the special committee that was headed up by Tracy Bartels about the problems with the jail. Tom thinks there is tremendous value in an oversight committee for future capital projects with a price tag to be determined at a later date if this gets off the ground. He will talk to the Legislators about creating a Local Law to make the Legislature privy to all assessments on projects through an oversight committee. Chairman Fabiano introduced Tom Kadgen to the Committee Members and asked that he begin his presentation.

- Presentation by Mr. Tom Kadgen: Formation of a Project Oversight Committee

Mr. Kadgen: The Hill report indicated that when Legislator Gerentine took office as Chairman, the jail project was significantly behind schedule and construction work had, for the most part, come to a halt (Hill report periods 2 and 3). It is my belief that at that point, no one could have brought the jail project in on time or on budget.

A review of the committee minutes of that era indicate that no county employee ever reported any problem with this project to any legislative committee.

Unfortunately the Grand Jury findings and the County's out-of-court settlement with the contractors has been sealed. So it is highly unlikely that we will ever find out what went so very wrong with this project.

The Grand Jury report attributed much of the blame to the lack of legislative oversight. However, it is my opinion this was not the fault of the overseers as much as it was the fault of those that kept the facts from them.

The 1987 legislature was confronted with a similar construction catastrophe. The Asbestos Removal Project for the County Office Building went from 1.9 million to over 5 million dollars. As a result, the Legislature of that time established a policy for major capital projects that unfortunately was either superseded, forgotten about, or ignored.

In the next legislative election cycle the legislature will be reduced from 33 to 23 members. As a result much of the institutional memory of what happened with the UCLEC will be lost.

I am requesting that a special subcommittee be formed to review the Grand Jury and Special Committee report to compose a Local Law that will charge a legislative committee with gathering testimony (by affidavit or by hearings) to ensure that all State and County policies are being followed and that the Legislature is getting true and factual information about any major capital project.

I believe that the final bid should be in place before the Legislature bonds any project. The project should operate on a line-by-line budget, and change orders should be reported immediately upon submission. We should ensure that all contracts for construction contain a termination for convenience clause. All reports should be signed off on under oath.

- Discussion

Legislator Provenzano gave a past history of the jail project saying there were 11 committees throughout the whole course of time the project was going on. She served on the DPW Committee and every month they would question both the Commissioner and Clerk of the Works about problems they heard about thru workers at the site. The Commissioner would say things were going along pretty smoothly. Therefore, Legislator Provenzano thinks subpoena power is important because if someone wants to be deceitful, it doesn't matter whether you have one committee or 20 committees. Legislator Provenzano said she knows when you do a change order there is money involved. Mr. Slate was very proud to say that he and the Clerk of the Works signed off on every change order. Therefore, they knew at that time, but did not share with the DPW Committee, that there were something like 1,200 change orders. Getting reports and information in writing and then signed off on is a good idea.

Short of that, continued Legislator Provenzano, to investigate a capital project is the duty of this Committee, the Public Works and Capital Projects Committee. The Committee has subpoena power. If somebody in this Committee has a question and feels they are not getting an answer, you have a right to officially bring them.

Legislator Fabiano pointed out that this special subcommittee would be spending their time solely on a specific big project, not conducting business regarding other things like the Public Works and Capital Projects Committee does. Down the road something will have to be done with Golden Hill and also Family Court. Legislator Fabiano commented that he likes the idea of a Local Law because it would force the Committee to meet.

Legislator Loughran commented that he likes the idea of having a policy that incorporates some type of clause allowing the Legislature to void or renegotiate a contract if something goes wrong.

Counsel Ken Gilligan commented that Legislator Loughran's idea sounds great, but is not easy to enforce.

Legislator Hochberg: Q./ Tom, when you say "projects," can you define what a project is? A./ T. Kadgen: Any time you would have to bond for capital gains depending on your criteria in terms of dollar amount. A project could be construction or something like a significant Information Services project, or anything that is a huge bonding.

Legislator Hochberg: Q./ There's a report out right now regarding the Resource Recovery Agency. Is that a project in your view? A./ T. Kadgen: No. I'm talking about something you are originating, county owned and operated.

Legislator Hochberg: Q./ We have a Committee, according to the Ulster County Directory, that is supposed to "develop a method of seeking out waste and inefficiency." Is that what you are proposing here? A./ T. Kadgen: No. I was on the special committee for the jail and in my view, after speaking with Art Smith, it seems the Executive Branch has done what they could to protect the public from this happening again. Somewhere down the line with a different Executive, I don't know what they'll do. Speaking for myself, I want a strong Legislative Oversight Committee to protect the people.

Legislator Provenzano commented that the Legislature reacted after the jail fiasco by initiating that the Director of Purchasing did not have the power by herself to sign off on a contract. Also created was the Office of Contract Management. Someone with a CPA background was put into the Auditing Department. All of these things are still in place. Legislator Provenzano commented that she wasn't opposed to adding an extra layer.

Legislator Hochberg commented that a subcommittee may not be the answer. Maybe what's needed is a general oversight committee that develops expertise with the help of all of county government.

Legislator Bernardo clarified that what's being looked at is a temporary subcommittee that would only write the Local Law and any policy that would have to do with what Tom is proposing. What gets written would be triggered only when there's a capital project that met a certain financial threshold, whether that is \$5 million, \$10 million, etc.

Legislator Provenzano reiterated her belief that these responsibilities fall under the existing Public Works and Capital Projects Committee.

Tom Kadgen suggested that maybe part of the PW and CP Committee's charge should be getting affidavits signed, or sworn testimony that what the Committee is being told is true.

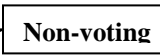
Legislator Fabiano doesn't want the subcommittee to be looked at as another layer, but as the main line of defense.

Legislator Loughran: Q./ Does the idea of obtaining documents signed off on under oath have to be a policy within itself? A./ Legislator Fabiano: That's why we are talking about a Local Law. I want to set a Public Hearing date and get it turned into Local Law so that we can ensure it happens all the time.

Legislator Ronk motioned to form a subcommittee to create a Local Law, 2nd by Legislator Petit. All in favor, Carried.

Sub committee members:

Legislator Bernardo
Legislator Fabiano
Legislator Loughran
Legislator Maio
Legislator Ronk
Counsel Ken Gilligan
Tom Kadgen as Advisor



Non-voting

Ken Gilligan advised that the Legislators begin to think of engineers, plumbers, etc. who should serve on the Oversight Committee when it comes into fruition.

- Adjournment:

The meeting was adjourned at 6:30 PM with a motion offered by Legislator Loughran, seconded by Legislator Roberts. All in favor. Carried.

Respectfully Submitted,

Victoria Fabella, Deputy Clerk, UC Legislature