

**Laws & Rules, Governmental Services Committee
Regular Meeting Minutes**

DATE & TIME: September 19, 2016 – 6:30 PM
LOCATION: KL Binder Library, 6th Floor, County Office Building
PRESIDING OFFICER: Chairman Kevin Roberts
LEGISLATIVE STAFF: Jay Mahler, Deputy Clerk
PRESENT: Legislators R. Parete, Rodriguez, Donaldson (arrived at 7:20 PM)
and Chairman Ronk
ABSENT: Legislator Belfiglio
QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Berky, J. Parete, Bartels and Heppner, Legislative Counsel Pascale, Minority Counsel Ragucci, Commissioner Susan Plonski – Department of Public Works, Tom Kadgen and Vic Melville – League of Women Voters, the following individuals identified themselves as Citizens: Carrie McCurdy, Evie Rouse and Chad G. Stickney

Chairman Roberts called the meeting to order at 6:30 PM.

Motion No. 1: **Moved to Approve the Minutes of the August 15, 2016 meeting**

Motion By: Legislator Rodriguez
Motion Seconded By: Legislator R. Parete

Discussion: None

Voting In Favor: Legislators R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: **Minutes APPROVED**

Resolutions for the September 20, 2016 Session of the Legislature

Resolution No. 291: Setting A Public Hearing On Proposed Local Law No. 9 of 2016 (A Local Law Regarding Campaign Finance Reform in Ulster County) To Be Held On Tuesday, October 11, 2016 At 6:05 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, October 11, 2016 at 6:05 PM to allow the public to offer comments on Proposed Local Law Number 9 of 2016.

Motion No. 2: **Moved for discussion**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Ronk

Discussion:

Chairman Roberts recognized the sponsor of the Local Law, Legislator John Parete. Legislator J. Parete thanked the Chairman for the opportunity to speak. He advised the members that the subcommittee appointed by Chairman Roberts to review the law had met and had a productive meeting. He said that the law was sent to every member of the Legislature and had not received any comments. Legislator Rich Parete said he was in favor of moving the Resolution to set the public hearing forward. Legislator J. Parete said he would like to see it postponed for one more month. Legislator R. Parete stated that he felt the public hearing should be scheduled if no one had offered any comments. Chairman Roberts commented that he would like to see the resolution postponed if that is what the sponsor was requesting.

Motion No. 3: **Moved to POSTPONE Resolution No. 291 FOR ONE MONTH**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Rodriguez

Discussion: None

Voting In Favor: Legislators R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: **Resolution POSTPONED FOR ONE MONTH**

Chairman Roberts move on to the late Resolutions out of consideration for Commissioner Plonski.

LATE Resolution No. 414: Amending Capital Project No. 458 – The Carmine Liberta Bridge – And Amending The 2016 – 2021 Capital Program – Department Of Public Works

Resolution Summary: This resolution amends the 2016-2021 Capital Program, Capital Project No. 458 – Replacement of the Carmine Liberta Bridge to reflect an increase in appropriations and revenue for the Village of New Paltz water main installation at the Carmine Liberta Bridge in the amount of \$39,546.00.

Motion No. 4: **Moved to adopt Resolution No. 414**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Rodriguez

Discussion:

Commissioner Plonski advised the members that waterline costs were higher than budgeted. She added that there was an intermunicipal agreement with the Village of New Paltz that the County would be reimbursed by the Village for any costs over the amount secured through the NY Rising grant.

Voting In Favor: Legislators R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: **Resolution ADOPTED**

LATE Resolution No. 415: Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – Badger Machinery, Inc. – Department Of Public Works

Resolution Summary: This resolution approves the execution of a contract with Badger Machinery, Inc. in the amount of \$129,046 for installation of ductile iron water main on and adjacent to the Carmine Liberta Bridge in the Town of New Paltz.

Motion No. 5: **Moved to adopt Resolution No. 415**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator R. Parete

Discussion: None

Voting In Favor: Legislators R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 4
Votes Against: 0
Disposition: **Resolution ADOPTED**

LATE Resolution No. 416: Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – Barone Construction Group, Inc. – Department Of Public Works

Resolution Summary: This resolution approves the execution of a contract with Barone Construction Group, Inc. in the amount of \$72,000 for New Paltz Pool Project Phase II: Filtration System.

Motion No. 6: **Moved to adopt Resolution No. 416**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator Roberts

Discussion:

Counselor Pascale asked Commissioner Plonski about an October date on the memo explaining lateness versus a different October date included in the contract. Commissioner Plonski explained the memo contained a typo.

Voting In Favor: Legislators R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None

Votes in Favor: 4
Votes Against: 0
Disposition: **Resolution ADOPTED**

LATE Resolution No. 417: Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – Northeast Petroleum Technologies Inc – Department Of Public Works

Resolution Summary: This resolution approves the execution of a contract with Northeast Petroleum Technologies Inc in the amount of \$280,251 to remove and replace fuel storage tanks and dispensers at ten DPW locations.

Motion No. 7: **Moved to adopt Resolution No. 417**

Motion By: Legislator Ronk

Motion Seconded By: Legislator R. Parete

Discussion:

Commissioner Plonski informed the members that the capital project has been around for a while and the county needs to get rid of the tanks. She added that here was an instance in New Paltz with an over-fill and the DEC looked into the case. She stated that the DEC is happy with the steps the county has taken thus far, but that the issues need to be more permanently addressed.

Legislator Rodriguez asked why the resolution was submitted late if the project was known about for a while. Commissioner Plonski responded that the RFP was developed by the county as opposed to an engineer which required additional meetings and information. Chairman Roberts added that the bids were received September 1st, which further explains lateness.

Legislator R. Parete questioned why the project couldn't wait until the Public Works meeting the next month. He added that late resolutions are intended to be for emergencies and not for a project that has been planned for months. Commissioner Plonski responded that there are limitations due to the constructions season. She added that she understands that late resolutions are considered by the Laws & Rules Committee and stated that she would be happy to discuss any known late resolutions with the Public Works Committee at their meeting.

Legislator Rodriguez stated that the Public Works Committee should be apprised of any projects, bids, etc. that may be coming in after the committee meets which would result in a late resolution. Chairman Ronk said it was his understanding that the involvement of the DEC with the spill in New Paltz advanced the project timetable. Legislator R. Parete stated his frustration with the number of late resolutions the past couple of months all having to do with public works. He added that he Public Works & Capital Projects Committee should have an opportunity to do their due diligence on these projects. Chairman Ronk informed the members that he asked the County Executive's office to inform the chair and vice chair of the Public Works committee about the late resolutions when he was asked to approve them. Legislator Rodriguez added that every member of the committee should be informed.

The members discussed the timeline of the RFP and contract approval process and for each of the late resolutions. Chairman Roberts commented that he did not have an issue with any of the late resolutions, but added that there seemed to be an increase in late DPW resolutions the past couple of months. The members continued to discuss the RFP development and approval process.

Voting In Favor: Legislators Roberts, Rodriguez and Ronk
Voting Against: Legislator R. Parete
Votes in Favor: 3
Votes Against: 1
Disposition: **Resolution ADOPTED**

Resolution No. 382: Setting A Public Hearing On Proposed Local Law No. 11 of 2016 (A Local Law Prohibiting Discrimination On The Basis Of Gender Identity At Places Of Public Accommodation, Resort Or Amusement) To Be Held On Tuesday, October 11, 2016 At 6:10 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, October 11, 2016 at 6:10 PM to allow the public to offer comments on Proposed Local Law Number 11 of 2016.

Motion No. 8: **Moved to adopt**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator R. Parete

Discussion:

Chairman Roberts asked Legislator Berky if any changes had been made to the law. She responded that no changes had been made from the previous version. Chairman Ronk advised the members that an opinion from Legislative Counsel on the current version of the law was included in the meeting materials. Chairman Ronk asked Legislator Rodriguez if Minority Counsel prepared an opinion as was requested at the previous meeting. Minority Counsel responded that he felt his opinion was clear and that he drafted an opinion. Legislator Rodriguez asked him to please forward his opinion.

Legislator Rodriguez asked Minority Counsel Ragucci for his view of Legislative Counsel's opinion. He stated that he disagrees with Legislative Counsel's opinion and feels the county has the authority to act. He added that he reviewed the cases cited in the counselor's memo and did not find them compelling.

Chairman Roberts asked Counselor Pascale to respond. Counselor Pascale stated that the concerns expressed in the memo were discussed at the July special meeting and added that he had not had an opportunity to have a written exchange with Counselor Ragucci. He continued by saying that he felt that the enforcement mechanism was the main sticking point. Chairman Ronk stated that his biggest concern was that the Human Rights Commission does not have the authority to adjudicate cases. He added that they are empowered to review cases and refer them to the state commission, which they already do. He advised the members that Legislative Counsel has held this opinion from the introduction of the local law and despite their opinion the law has

remained unchanged. He added that he was not willing to pass a resolution to set a public hearing on a law that counsel believes is legally insufficient.

Legislator Heppner asked if Legislative Counsel's opinion was regarding the language or concept considering there are other counties whose Human Rights Commissions act in this capacity. Counselor Pascale responded that there were three points of concern raised in the memo: preemption, conflict with existing state law, and the enforcement mechanism as it relates to General Municipal Law 12D which is cited in the Ulster County Charter and Administrative Code. Legislator Heppner asked if Counselor Pascale felt that other counties with similar laws were operating legally. Counselor Pascale responded that, with the exception of the City of New York who operates with concurrent jurisdiction with the state, he believed they are not functioning within the law. He added that he reviewed briefs from a case in Westchester County which he believed, if it had been properly challenged, would have found the Human Rights Commission was operating outside of its authority. He stated that, in contrast to the proposed local law, Westchester argued that their Human Right Commission was authorized under police powers as opposed to General Municipal Law.

Counsel Ragucci responded that the case Legislative Counsel cited was from the mid-nineties. He added that he did not agree with the preemption argument as there is no current state law. Counselor Pascale responded that the case Counselor Ragucci referenced was regarding the unique status of NYC having concurrent jurisdiction with the state. He continued by saying that the case he referenced regarding enforcement authority in Westchester County was from 2015 citing the authority of their commission under police powers. Counselor Ragucci stated that he felt the enforcement section was legally sound but suggested possibly amending it if that would make Legislator more comfortable.

Legislator Rodriguez stated that although there is a state regulation, a law was being considered by the legislature as an acknowledgement of the power of a law versus a regulation. He added that he felt it was important to act locally, was comfortable with the law as is and felt the matter could be revisited after the public hearing. Chairman Roberts restated his support in principal of the law and recalled a conversation from the previous month that if changes were made to the enforcement section members would be comfortable passing it.

Legislator Berky stated that the request was not for a memo, but for a recommendation from Legislative Counsel for suggested language to correct the enforcement section. Chairman Ronk responded that his recollection of the request from the previous meeting was for Legislative Counsel to provide memo detailing what the legal concerns were and for Minority Counsel to provide a memo supporting the legality of the law as written. He stated that he felt action on the state level would be more appropriate adding that when the Governor announced his executive order he stated that action on a county by county basis was contrary to people being equal throughout the state.

Legislator Rodriguez stated that Legislative Counsel's opinion did not offer any suggestions to improve the law rather rater stated reasons why it was not legally sound. Counselor Pascale responded that he would defer to the minutes of the previous meeting, but envisioned a process whereby Legislative Counsel and Minority Counsel would exchange memos and any suggested amendments to the law would evolve from that. Legislator Rodriguez asked if in Counselor

Pascale's opinion a way to amend the law to make it legally acceptable. Counselor Pascale responded that legislative counsel has identified their three issues. Regarding enforcement he stated that he did not see a way to legally use the local Human Rights Commission as a court. He asked if Minority Counsel knew of such a way. He added that it was his understanding that the Human Rights Commission was designed to be a conciliatory body not a punitive one who would act a mediator. He concluded by saying that if mediation failed, the commission could refer the matter to the state commission.

Legislator Donaldson stated that he would like to see action on the local level. Chairman Ronk cautioned that moving forward with a local law that is not legally sufficient could end up harming an individual who brings a complaint to the commission which is then challenged. Counselor Pascale gave the example of a case in Albany County where a suit against the county cyberbullying law was upheld and charges dropped because the law was not legally sound.

Chairman Roberts asked if there was any further discussion. The members discussed the date of the public hearing in relation to the Yom Kippur. It was agreed that the Chairman would work with the Clerk of the Legislature to find an acceptable date and the resolution would be amended the next day at Legislative Session. Chairman Roberts called the question.

Voting In Favor: Legislators Donaldson, R. Parete, and Rodriguez
Voting Against: Legislators Roberts and Ronk
Votes in Favor: 3
Votes Against: 2
Disposition: **Resolution ADOPTED**

Resolution No. 390: Setting A Public Hearing On Proposed Local Law No. 13 of 2016 (A Local Law Amending The Code Of The County Of Ulster To Limit The Gifts That County Officers And Employees May Receive) To Be Held On Tuesday, October 11, 2016 At 6:15 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, October 11, 2016 at 6:15 PM to allow the public to offer comments on Proposed Local Law Number 13 of 2016.

Motion No. 9: **Moved to adopt Resolution No. 390**
Motion By: Legislator R. Parete
Motion Seconded By: Legislator Rodriguez

Discussion:

Chairman Roberts asked if Legislator Bartels, who along with Legislator Heppner sponsored the law, would like to say anything about it before the vote. Legislator Bartels stated that the law was introduced as a result of a report recently released by the County Comptroller which pointed out that there while there was a \$75 limit for a gift, there was no cap on the number of gifts an individual could receive. Legislator R. Parete stated he felt the law should be part of the Campaign Finance Law. Legislator Bartels responded that while she agreed, this local law was amending an existing section of the code.

Voting In Favor: Legislators Donaldson, R. Parete, Roberts, Rodriguez and Ronk
Voting Against: None
Votes in Favor: 5
Votes Against: 0
Disposition: **Resolution ADOPTED**

Resolution No. 411: Setting A Public Hearing On Proposed Local Law No. 15 of 2016 (A Local Law Amending The Ulster County Charter Section C-101A And The Ulster County Administrative Code Section A 30-2A, To Amend The Powers And Duties Of The Ulster County Human Rights Commission) To Be Held On Tuesday, October 11, 2016 At 6:20 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, October 11, 2016 at 6:20 PM to allow the public to offer comments on Proposed Local Law Number 15 of 2016.

Resolution No. 412: Setting A Public Hearing On Proposed Local Law No. 16 of 2016 (A Local Law Establishing A Comprehensive Ulster County Human Rights Law) To Be Held On Tuesday, October 11, 2016 At 6:25 PM

Resolution Summary: This resolution sets a public hearing for Tuesday, October 11, 2016 at 6:25 PM to allow the public to offer comments on Proposed Local Law Number 16 of 2016.

Motion No. 10: **Moved Resolution Nos. 411 and 412 FOR DISCUSSION**
Motion By: Legislator Rodriguez
Motion Seconded By: Legislator R. Parete

Discussion:

Legislator Rodriguez stated that it was not his intention to have the laws move forward this month. He added that he would like to request that Chairman Roberts schedule a work shop meeting. Chairman Roberts asked if there was a will of the members to have a workshop. Chairman Ronk expressed his resistance to having a work shop meeting if concerns of Legislative Counsel are dismissed as they were with proposed Local Law No. 11. At the request of Legislator Rodriguez, the sponsor of the Resolutions, the committee took no action.

Chairman Roberts asked if there was any other business, and hearing none;

Adjournment

Motion Made By: Legislator Rodriguez
Motion Seconded By: Legislator Ronk
No. of Votes in Favor: 5
No. of Votes Against: 0

TIME: 7:45 PM

Respectfully submitted: Jay Mahler, Deputy Clerk
Minutes Approved: October 17, 2016