

**RFP COMMITTEE MEETING
MINUTES**

**MONDAY, JANUARY 5, 2015
3:30 P.M.**

PRESENT: L. Stephen Brescia, Chairman
Michael Amo, Independence Party Leader
Jeffrey D. Berkman, Minority Leader
Melissa Bonacic, Majority Leader
Katie Bonelli, Chair, Physical Services Comm.
Myrna K. Kemnitz, Legislator
Steven M. Neuhaus, County Executive
Wayne C. Booth, Deputy County Executive
Christopher Viebrock, Deputy Commissioner, Public Works/Engineering Division
Anthony Capozella, Director of Facilities, Department of Public Works
Jim Burpoe, Commissioner, Department of General Services
Steven M. Gross, Commissioner, Department of Human Resources
John McCarey, Director, Real Property

ALSO

PRESENT: Mike Anagnostakis, Legislator
Barry J. Cheney, Legislator
James DiSalvo, Legislator
James Kulisek, Legislator
Paul Ruskiewicz, Legislator
Matthew A. Turnbull, Legislator
John S. Vero, Legislator
Shannon Wong, Legislator
Antoinette Reed, Legislative Counsel
Harry Porr, Director, Operations and Cost Control
Rob Schreibeis, Staff Assistant to the County Executive
Langdon Chapman, County Attorney
Walter C. Koury, Commissioner of Emergency Services
Jim Brooks, Deputy Commissioner, Public Works/Buildings and Grounds
Howard Protter, Esq., Jacobowitz and Gubits, LLP

Chairman Brescia opened the committee meeting at 3:32 p.m. by asking everyone to stand for the Pledge of Allegiance. All committee members were present with the exception of Majority Leader Bonacic who arrived at 3:45 p.m. and Minority Leader Berkman who arrived at 4:23 p.m.

The first agenda item was to review proposals submitted by Kaufman and Pike for sale/lease of the Orange County Government Center. Power point Presentations on the proposals were then presented to the committee by each of the proposers. Chairman Brescia asked if anyone had a question or comment regarding the proposals.

Mr. Cheney asked whether or not the County Executive had any discussion with Mr. Kaufman regarding leasing back Division III after it is fixed. He knows that one of the things that were mentioned was that from a construction standpoint there was a one year time frame.

Chairman Brescia replied that he does not know. They have three letters now; two of them say that the county cannot do certain things. He asked Mr. Chapman for his opinion on the all this.

Mr. Chapman stated that he thinks there is an open issue. He was familiar with the opinion from the Comptroller circa 1982 relative to Rensselaer County. There are a few differences there because Rensselaer County was looking to lease back and immediately occupy a building, here we are not occupying the Government Center Building and are not looking to do that immediately. So he thinks there are some differences between the Rensselaer County situation and Orange County. With that said, is it likely to be a subject of litigation, he assumes so. Someone pointed out to him that Pike County is proposing to lease back the entire premises while Mr. Kaufman's counsel feels that is illegal and now Mr. Kaufman is offering to lease back a third of the building. If it is illegal for a whole, it might just be illegal for the third, although he is not going to concede that it is illegal under any circumstance. To answer Mr. Cheney's question, a letter was received from Mr. Kaufman's counsel and if Mr. Kaufman wants to change his offer he can based on what the legislature wants to do. Again, if it is illegal to lease back the entire premises, isn't it just as illegal to lease-back a third of it? He is not going to agree it is necessarily legal on either circumstance but he thinks it brings up an interesting question; that the legislature would entrust the fate of this decision to a gentleman who wears a black robe.

Chairman Brescia asked Mr. Chapman if he has an opinion on the Pike letter.

Mr. Chapman replied yes, he can give his opinion in executive session.

Mr. Cheney commented that when Mr. Kaufman made his presentation, he opened the door through questioning for lease-back to be a possibility. He asked if there have been any discussion between the County Executive's Office and Mr. Kaufman.

Chairman Brescia replied that the County Executive will be here in a few minutes.

Mr. Cheney stated that the newspaper reported that the federal courthouse in Middletown had been closed. He asked if that presents some kind of an option for them to relieve them from the immediate concerns that the state court has relative to having sufficient court space in Orange County to take care of the judges.

Mr. Chapman replied that the state courts want the county to move forward with the plans; they haven't come back saying where to move anyone. The courts want a permanent solution. He stated that if they start dividing up the court space around the county that creates a serious problem.

Mr. Cheney asked if that exists in Newburgh.

Mr. Chapman replied that it doesn't exist as much because the vast majority of Supreme Court actions happen in Goshen. He reiterated that the state courts and the OCA want to hear that this project is moving forward with a permanent solution.

Mr. McCarey commented that when the Government Center first closed, they did look at the federal court in Middletown and they did not want to share court space. They also looked at a number of local courts and the Court Administration wanted everything in one location.

Mr. Chapman stated that is not a shock.

Mrs. Bonelli asked Mr. Chapman if Mr. Kaufman can change his proposal.

Mr. Chapman replied that Mr. Kaufman indicated that he would be willing to lease-back Division III to the county for use of the courts which would be a change from his initial proposal.

Mrs. Bonelli clarified that Mr. Kaufman can change his proposal at any time. She asked when the clock stops.

Mr. Chapman stated that there are no specifics here. The County Executive put out an RFP, there was a sealed proposal process and now there is a statement that things can change. He explained that proposals can be negotiated all the time and that is pretty common. Often times though someone would be negotiating something fairly similar to the next person's proposal, this is a little different. It is not necessarily the best practice to go out there and start substantively changing proposals.

Mrs. Bonelli then clarified that the resolution puts some type of a time frame on when the legislature has to make the ultimate decision.

Mr. Chapman stated that Mrs. Bonelli is correct. First the local law has to become a law which it hasn't, the permissive referendum period has to run out and there not be one filed and then there is a window after that for when the legislature has to make a decision. He added that if this becomes a law, they have a 45 day waiting period to see if a permissive referendum petition will be filed. Agreements can be negotiated fairly fast and there is nothing legally that says they cannot go out and do it.

Chairman Brescia commented that Division III was not part of Mr. Kaufman's proposal. The question was asked; therefore, Mr. Kaufman stated that his proposal is amendable.

Mr. Anagnostakis asked what is going to happen in executive session.

Chairman Brescia replied that they will be discussing the proposals.

Mr. Anagnostakis clarified that they will not be making a determination.

Chairman Brescia stated that is correct, they cannot make a determination in executive session.

Mr. Ruskiewicz stated that part of Mr. Kaufman's proposal was to put an addition on the existing courthouse which could be a permanent fix.

Mr. Chapman responded that he will let the proposal speak for itself but he doesn't think that was part of his proposal exactly. He thinks his proposal was to acquire Divisions I, II, and III and may be interested in doing the other work if the legislature chose to do something different.

Mr. Anagnostakis commented that the whole problem with a potential lease-back and litigation can be easily solved if they don't go down that path at all. They have a proposal to buy the building for \$5 million and then they could apply the \$5 million to construct a new courthouse adjacent to the old one. Furthermore, they could move right away on that and the debate would be over. It would be the most cost effective way to get the litigation out of the potential problem of lease back and fulfill the court requirements that they were looking for.

Chairman Brescia stated that is a valid point.

Mrs. Bonelli moved to enter executive session pursuant to the Open Meetings Law Section 105.1(f) and (h) for the express purpose of consideration of proposals for the sale/lease of the Orange County Government Center as well as the financial history of particular persons or corporations who submitted responsive proposals for the sale/lease of the Orange County Government Center, seconded by Ms. Kemnitz.

Committee entered into executive session at 3:47 p.m.

Ms. Kemnitz moved to leave executive session, seconded by Mrs. Bonelli.

The committee left executive session at 4:42 p.m.

Mr. Booth moved to reject Mr. Kaufman's proposal, seconded by Mr. Burpoe.

Motion carried. All in favor with the exception of Mr. Amo and Ms. Kemnitz who voted no.

Mr. Anagnostakis stated that when they were in executive session they had a debate about Mr. Kaufman's proposal. He would like to thank the County Executive for putting together a chart that showed all the options for the Orange County Government Center. The last County Executive didn't do this. All the information is correct and gives all the choices. In his opinion, the best option for the county would be to do something that isn't the most expensive option because that is the wrong way to go.

Ms. Kemnitz commented that in addition to the fiscal and monetary conditions, she is also thinking about the environmental consequences to the Village and the Town of Goshen in terms of air, ground and travel. Mr. Kaufman does not impinge upon Goshen.

Mr. Booth moved to reject the Pike County proposal, seconded by Ms. Kemnitz.

Motion carried. All in favor.

Mr. Anagnostakis pointed out that this is an ad-hoc committee, not a statutory committee. He clarified that the actions that occurred here today would prohibit any further actions from referring on the floor by consent if some people wanted to move that way.

Mrs. Reed stated that if someone wanted to move that way and there was a majority, they could do so and Mr. Anagnostakis is correct.

Mrs. Bonelli stated that this is an advisory vote that occurred.

Chairman Brescia explained that someone could bring this to the committee to the committee chairs, either Physical Services or Ways and Means. Otherwise, if there is a veto in the next fifteen minutes there could be a move to go to committee and overrule the veto.

Mr. Anagnostakis stated that if there was no veto then it could just occur in committee.

Chairman Brescia responded that it could come up for a vote.

Mrs. Reed noted that to override a veto, it has to happen at a regular Legislative Session and the meeting tomorrow is not a regular meeting.

Chairman Brescia stated that it would happen at the next Legislative Session in February.

Mr. Cheney asked if they could do a consent resolution tomorrow.

Mrs. Reed replied that if the local law is vetoed they do not have the authority to move forward.

Mr. Cheney asked if a consent resolution could be done to override the veto.

Mrs. Reed replied no, not tomorrow.

Mr. Cheney asked why and Mrs. Reed replied it would have to be at a regular meeting. She stated that tomorrow is an organizational meeting.

Mr. Ruskiewicz clarified that if the County Executive does veto the local law, the legislature would need 14 votes to override it.

Chairman Brescia stated that is correct.

The meeting adjourned at 4:47 p.m.