

**RULES, ENACTMENTS AND INTERGOVERNMENTAL RELATIONS COMMITTEE
MINUTES**

**WEDNESDAY, JUNE 19, 2019
3:30 P.M.**

PRESENT: Thomas J. Faggione, Chairman
Katie Bonelli, Barry J. Cheney, Kevin W. Hines, James M. Kulisek, Michael D. Paduch,
John S. Vero

ALSO

PRESENT: L. Stephen Brescia, Chairman
Antoinette Reed, Legislative Counsel
Harold J. Porr, III, Acting County Executive
Dan Bloomer, Director, Operations and Cost Control
David Church, AICP, Commissioner of Planning
Louise Vandemark, Commissioner, Board of Elections
David C. Green, Commissioner, Board of Elections
Bianca Staltare, Deputy Commissioner, Board of Elections
Erik Denega, Commissioner, Dept. of Public Works
Travis B. Ewald, Deputy Commissioner, Engineering Division
James P. Burpoe, Commissioner of General Services
Tim Tucker, Budget Analyst
Deanna Crawford, Budget Analyst
Matt Ross, Council Member, Local 279-Northeast Regional Council of Carpenters
Scott Smith, Council Member, Local 279-Northeast Regional Council of Carpenters

Mr. Faggione opened the meeting at 3:30 p.m. and requested everyone stand for the Pledge of Allegiance to the Flag. All members were present with the exception of Legislator Amo who was absent.

Ms. Bonelli moved confirmation of reappointment to the Orange County Board of Ethics (G. Sicina), seconded by Mr. Hines.

Mr. Porr stated that Ms. Sicina was recommended for reappointment to the County Executive by her fellow board members. The County Executive agrees with the recommendation and has reappointed her for a term ending on December 31, 2021.

Motion carried. All in favor.

Mr. Cheney moved to approve SEQRA and applications for inclusion of lands into the Orange County Agricultural District Nos. 1 & 2, seconded by Mr. Kulisek.

Mr. Church explained that annually the legislature is authorized to approve applications and inclusion of lands into the Orange County Agricultural District Nos. 1 and 2. There were two

deemed eligible; one in the Town of Newburgh Agricultural District No. 1 and one in the Town of Chester Agricultural District No. 2. with both subject to SEQRA. During the public hearing comments were made with respect to the Town of Newburgh application and there were additional conversations at the Education and Economic Development committee meeting this week, so he was asked to approach the Town of Newburgh applicant, Mr. Spinelli. He spoke to Mr. Spinelli who stated that he wants to pursue growing nursery stock and has already began planting with the soil suitable for that endeavor. He also stated that he has no intention at this point nor does his application reference that he would open a garden center, but he does plan on seeking permits to construct a family home on the property.

Mr. Faggione commented that the approval of SEQRA and adding these lands into the agricultural districts is based on soil.

Mr. Church clarified that guidance from New York State says that it must be viable for farm operation as defined in New York State Agriculture and Markets rules. Everything that Mr. Spinelli is doing clearly falls under farm operations. However, if either property owner sought to do something beyond an agricultural practice, they would have to seek town approvals.

Mr. Hines asked if the agricultural board was required to check the property because he was informed that the agricultural board did not walk the property even though the minutes indicate that they did. Mr. Church replied no, it is not a requirement. Typically, the Director of Real Property has organized tours of properties however, that was the week of his incident, but the site was visited individually by two or three of the board members.

Mr. Hines commented that at the public hearing the applicant stipulated that he would be bringing in Christmas trees to sell prior to his crop being ready.

Mr. Church replied that he would not be protected to do that, and it would probably be subject to a town permit.

Mr. Hines expressed his concern that the applicant would be bringing stuff in for sale and not just growing it.

Mr. Kulisek pointed out that he would be bringing in seedlings to grow.

Mr. Hines agreed, however, he stated that he would also be bringing in cut Christmas trees to sell.

Mr. Church reiterated that it was not a protected activity under this program.

Mr. Hines asked about consideration for road conditions as neighbors have indicated that the road is not sufficient for 18-wheelers. Mr. Church replied that it would be a consideration for site plan approval with the Town of Newburgh. The applicant would have limited protection as a farm operation in an agricultural district to sell only what he grows as long as the farm operation follows sound agricultural practices as defined in state statutes. If he were to bring in additional trees, he would not be awarded protection and/or immunity from local zoning.

Mr. Kulisek emphasized that it was not under their purview to decide that and he knows one of the neighbors personally and they have no issue.

Mr. Faggione noted that as a Municipal Home Rule state this matter would be brought before the local town planning and zoning boards; however, their decision on whether or not the lands go into the agricultural district are based on soil observations and viability for farming. He referenced Orange County Local Law No. 6 of 2006 entitled, "A Local Law Establishing A Right-to-Farm Policy In Orange County, New York," as an encouragement for sound agricultural practices and the preservation of open space.

Mr. Faggione asked for clarification that a farm does not have to be in the agricultural district. Legislative Counsel Reed replied no.

Mr. Faggione added that this resolution passed unanimously at the Education and Economic Development committee meeting.

Mr. Hines asked that the parcels be voted on separately.

Mr. Faggione granted Mr. Hines' request.

The vote on parcel 20-4-3.2 in Agricultural District No.1 in the Town of Newburgh was as follows:

Motion carried 6-1 with Legislators Bonelli, Cheney, Faggione, Kulisek, Paduch and Vero voting in favor and Legislator Hines voting against.

The vote on parcel 5-1-1.4 in Agricultural District No. 2 in the Town of Chester was as follows:

Motion carried 7-0 with Legislators Bonelli, Cheney, Faggione, Hines, Kulisek, Paduch and Vero voting in favor.

Legislative Counsel Reed added that the eight-year review is due next year, and they normally have a commission that would work on it with technical staff.

Mr. Church added that they have an Agriculture Implementation Committee that could serve that purpose with the appropriate agencies being represented and Legislator Ruskiewicz representing the Legislature.

On the agenda was a discussion on the Apprenticeship Training Program with representatives of Local 279 - Northeast Regional Council of Carpenters.

Mr. Faggione explained that he was approached several months ago with respect to county contracts, carpenters and construction trades and the encouragement of the Apprenticeship Training Program as part of their contracts and its possible addition to the Orange County Procurement Policy.

Mr. Ross presented a brief overview of the Apprenticeship Training Program. It is a five-year program that provides paid on-the-job training at no cost to the apprentice with candidates coming through the Department of Labor, schools and disadvantaged youth programs. They also have the Sisters in the Brotherhood program which is a six-week program that leads into their apprenticeship program. They work closely with their contractors to provide work for their apprentices in order to get them to the next level and make them journeymen after five years. What they are looking for with the resolution is for laws to assist them and to ensure that contractors bidding for county jobs are made accountable and have a New York State Certified Apprenticeship Program. They are not asking them to just have the program, but to also force them to have a 30% graduation rate. This is not a union or nonunion issue, it's about contractors and perpetuating the trades by bringing in their youth, getting them into a trade and having a job to put them on.

Mr. Faggione added that the resolution is looking to amend their procurement policy with respect to county construction contracts "in excess of \$350,000.00, in the aggregate as awarded or subcontract thereunder, which exceeds \$350,000.00" and in those situations those entities would have to show that they are a participant in the Apprenticeship Training Program. He read a brief passage from the New York State Apprenticeship which "...is a time-honored approach to training skilled workers with on-the-job training and classroom instruction. Apprentices are full-time employees who produce high-quality work while they learn skills that enhance their employment prospects..." In addition, during the construction of this building there were eight contracts that exceeded the threshold of \$250,000.00.

Mr. Faggione presented the committee with a letter from Tri-State Drywall & Acoustical, Inc. (see original minutes) on their involvement in the New York State Apprenticeship Program since 2005.

Mr. Brescia expressed concern with the draft resolution under ENFORCEMENT: "...The Commissioner of General Services is hereby authorized, empowered and directed to promulgate and, from time to time, amend such rules and regulations that are lawful..." and in his opinion, he should not have the power to amend the law.

Legislative Counsel Reed explained that from time-to-time the Commissioner of General Services may have rules and regulations that need to be amended but not the law.

Chairman Brescia asked if he could unilaterally amend them. Mr. Burpoe replied that they would be following New York State General Municipal Law Sections 103 and 104. On occasion they may get something that is federally, or state grant funded that would not apply to this. They would not want to delay and/or stall projects so they would work with the Commissioner of Public Works to ensure the projects move forward.

Mr. Denega added that his main concern was that some contractors may already have a program but if not, they would have to reach out to the hall and they just wanted to ensure that a project would not be delayed.

Legislative Counsel Reed clarified that the following was added to the resolution to address those concerns: "...However, this Section C shall not preclude the Commissioner of General Services, along with the Commissioner of Public Works, from negotiating such terms and conditions with a construction contract contractor to assure that there is a sufficient labor workforce so as not to

delay completion of the construction contract project..." This would cover a situation in which there was not enough labor, and they had to go out of the hall.

Chairman Brescia stated that his understanding was that Messrs. Ross and Smith would present to the committee today with the resolution possibly coming back to committee next month for a vote.

Mr. Faggione replied yes, it was brought to committee today for discussion only.

Mr. Cheney referred to the letter presented by Mr. Faggione and did the business use this program or one of their own. Mr. Smith replied that all programs are governed by state labor law and there are approximately 800 apprenticeship programs in New York State with 167 being union and the majority nonunion.

Mr. Cheney asked how long it has been in existence. Mr. Smith replied since the 1950's.

Mr. Cheney asked about 2007, when there was no work and no need for apprentices. Mr. Smith replied that while recruitment probably slowed down New York State guidelines required they continue to bring them in; however, they probably lost a lot due to the lack of work. Getting apprentices work is a priority for council reps and they use an automated system which enables everyone the opportunity and they must take first year apprentices. In addition, the apprentices only go to school 4 weeks a year with all their training, on the job training.

Mr. Ross added that many contractors who take on first year apprentices keep them for their entire apprenticeship program. Many apprenticeship programs are not real, and they have them only to say that they have them which was why they asked for the 30% graduation rate.

Mr. Smith added that their training center is in Rock Tavern, New York, and they are renovating the building at a cost of approximately \$4 million. They currently have 167 apprentices in their program with 58 from Orange County. Not everyone is made to go to college and having a skilled trade is an option for them.

Mr. Burpoe concurred that it is a great program and it will be regulated and enforced.

Mr. Cheney asked if a contractor was required to use a certain number of apprentices on a project. Mr. Smith replied that New York State Department of Labor guidelines stipulate that it is 3 journeymen to 1 apprentice on a prevailing wage project.

Mr. Cheney referred to the draft resolution and Section 3 (d); under EXEMPTIONS and the exclusions of paving and land clearing. Mr. Denega replied that there were concerns with small paving operations and possible delays in work.

Mr. Ross added that the threshold of \$350,000.00 increase was to ensure that contracts for local businesses can still bid on county projects under the threshold.

Mr. Hines expressed concerns for nonunion contractors and whether they would be able to comply and how can they prove it to the Commissioner of General Services. Mr. Smith replied that

they are all New York State certified apprenticeship programs that are filed with the Department of Labor.

Mr. Smith clarified that with respect to their apprenticeship program all they supply is the building and material with everything else governed by New York State. The apprentices must document in their "blue book" their classroom hours and everything they have done during working hours. The only way an apprentice can move up to a second, third or fourth-year apprentice is if they have their hours and classroom time in.

Mr. Hines asked if they received any "pushback" from contractors and/or other trades. Mr. Smith replied no, as they all have apprenticeship programs.

Mr. Denega stated that they have spoken to several bridge contractors with a few indicating that they have their own program, a few with no issues and a few that were unsure due to the amount of paperwork involved.

Mr. Smith explained that contractors are signatory to their agreement and are already hiring the apprentices in the program. Ninety-five percent of the contractors bidding on contracts already have a workforce in place but when a company has multiple jobs and their workforce gets thin that is when they come to them for help.

Mr. Kulisek acknowledged that he is a member of Local 373 Pipefitters and an officer. In past years he also sat on the Joint Apprenticeship Training committee and is well versed and contractors love apprentices as it's cheap labor. He is in favor of the resolution and was pleased to see the 30% graduation rate because some contractors have signed onto an organization with an apprenticeship program but never hired apprentices. The "blue book" is essential and needs to be updated constantly as it will be their grade because they must go back to the state and prove the hours they have worked, tasks and schooling.

Mr. Smith added that if they want to make more money, they need to fill out the book, if they want to go from a 50% to 60% rate, they must have their class time and log filled out as it is the only way for them to move up. At the Rock Tavern facility, they have a graduation rate of 82% and after the first year and they become second year, it is above 90% with those figures filed with the Department of Labor.

Mr. Paduch disclosed that he has been a member of a local for 40 years and apprenticeship training is one of the smartest things any workforce can do. However, he expressed concerns that carpenters only have 4 weeks of in-school training.

Mr. Smith explained that in-school training is 4 weeks a year and they must attend the training to receive their certification.

Mr. Paduch asked for clarification that there would not be any contracts under \$350,000.00 and if they get a contract for \$200,000.00, they would not be required to do this. Mr. Denega replied that prevailing wage requirements would still apply.

Mr. Cheney asked about other counties adopting similar legislation and when. Mr. Smith replied Albany County, Nassau County, Suffolk County, Dutchess County and Rockland County

have apprenticeship language attached to their Industrial Development Agency (IDA) but he would get the complete list to the committee.

Mr. Cheney asked if New York State has a similar requirement for contracts. Mr. Smith replied that if it's a prevailing wage it would be a 3 to 1 ratio.

Mr. Faggione explained that they would be returning to their caucuses to discuss this further.

On the agenda was the Board of Election with an update on 2019 Elections and State Funding.

Commissioners Green and Vandemark presented the committee with the list of Early Voting Centers which included dates and hours and the early voting cost estimate (see original minute).

Mr. Green stated that they have designated their early voting sites, dates and hours and the state has made some progress with respect to the two grants and their allocation.

Ms. Vandemark explained that Orange County's portion of the \$10 million grant to cover additional voting equipment, staffing and polling site expenses should be for \$220,713.00. Out of the \$14 million grant they will receive \$294,440.00 to cover electronic poll books, printers, etcetera for a total of \$515,153.00. However, none of this has been guaranteed but it has been approved by the budget director.

Mr. Faggione stated that between early voting, e-poll books and various equipment they are looking at an approximate payment from New York State of \$515,153.00.

Ms. Vandemark addressed the Early Voting Cost Estimate. Electronic pollbooks at \$704,579.00; ballot transport bags at \$9,500.00; card security bags at \$1,071.00; early voting signs at \$750.00; ballots for early voting at \$1,400.00; transportation for equipment at \$5,200.00; election workers at \$102,645.00; legal notices at \$2,500.00; training at \$2,500.00 and miscellaneous supplies at \$2,500.00 for a total of \$832,645.00.

Mr. Faggione asked for the number of electronic pollbooks. Ms. Vandemark replied 325 pollbooks and cover all election districts in Orange County.

Mr. Kulisek asked if the ballot transport bag would go back to the polling place on election day. Ms. Vandemark replied no, they must remain sealed and unopened until election night, but they are reusable.

Mr. Faggione asked for clarification that the cost would be \$832,645.00 for this year. Ms. Vandemark replied yes, but next year they will not have to purchase the electronic pollbooks, ballot transport bags and signs.

Mr. Green added that the electronic pollbooks would also be used for the general election and certain cost would be mitigated by going to electronic pollbooks.

Ms. Bonelli asked about staffing levels at the seven early voting poll sites. Ms. Vandemark replied that it would be determined by the number of voters. At sites 1 through 4 they will have three electronic pollbooks and at 5 through 7 they will have two electronic pollbooks. Under the new law if there is more than a thirty-minute wait at a polling site they must get additional equipment and inspectors on site.

Ms. Bonelli asked for the number of inspectors working per pollbook. Ms. Vandemark replied one democrat and one republican.

Mr. Kulisek pointed out that they are looking at upwards of \$115,000.00 a year after this year.

Ms. Vandemark clarified that they will be required to have nine days of early voting at every election, but primary elections could be less.

Ms. Bonelli asked if they would be required to have early voting for a committee seat primary. Mr. Green replied that as the law appears now, yes.

Mr. Paduch commented that he has spoken to the state and was told that when the Office of General Services (OGS) contract comes out all electronic pollbooks would be paid for if they went with their vendor.

Ms. Vandemark replied that they have not been advised of that.

Mr. Paduch emphasized that Orange County was only required to have five early voting sites but have seven, was that at the discretion of the Election Commissioners. Mr. Green replied yes, and they were not the only county in the state to increase their early voting sites as Ulster County will be having eight even though they have a lower population.

Mr. Hines asked if a voter votes on the electronic pollbooks would that information be available to the candidates and poll watchers. Ms. Staltare replied that the electronic pollbooks are in "real time" and as soon as a voter votes the Board of Elections will be able to see it. This will enable them to see how long it takes for an inspector to sign in a voter and print the ballot which they will need in order to track and report for reconciliation purposes.

Mr. Hines asked about the process for poll watchers. Ms. Vandemark replied that poll watchers only receive information at the polls as they need to be present to take down the names of voters as they come in. Election Inspectors are not allowed to go through the book and tell poll watchers who has come into vote.

Ms. Vandemark added that it could be a FOIL request.

Mr. Hines asked if the FOIL request would have to be done in person or electronically. Ms. Vandemark replied that they are reviewing the laws and are in the process of developing a new policy.

Mr. Hines asked if the electronic pollbooks would be preloaded with voter signatures. Mr. Green replied yes, via upload as they already have the signatures through their registration data base. Potentially, voter history could be expedited into their voter registration system as they

currently go through each pollbook manually, enter who has voted which can be an approximate two week turnaround at a great cost savings and savings in productivity.

Mr. Faggione commented that early voting will have a major impact on the Board of Elections and major financial impact on Orange County. On April 24, 2019, he listened to a webinar that included several state assemblymen including Assemblyman Charles D. Lavine. He stated that "...there will be unanticipated costs associated with this and that pollbooks will be necessary for the larger counties and none of us believe that state spending is going to cover all of these costs..." In his opinion, he has never heard a more accurate term for an unfunded state mandate. Is he correct in stating that New York State may provide \$515,000.00; however, our expenditures are at \$832,000.00 on an initiative that no one in the County of Orange voted for or against but they are being mandated to do by the state.

Mr. Faggione asked if there was any other information that their constituents should be aware of.

Ms. Vandemark addressed the committee with several updates.

Ms. Vandemark explained that they have met with the Department of Human Resources and Acting County Executive Harold J. Porr who reinstated the two positions they lost a few years ago. They are waiting on the New York Legislative Session to end in order to know what else they may need to do as new bills are passing almost daily. At the request of the Legislature, voting booth curtains are back and ready for the primary election as new rods have been acquired. In addition, their new voting and absentee voting counting system passed state acceptance testing and will be used for the primary. Lastly, they are diligently trying to be frugal and looking at all cost saving options.

Mr. Faggione commented that they are definitely challenged this year due to the changes that have come forward.

Mr. Green added that the Office of General Services (OGS) contracts are still being worked on and they should know more in July. If the grants come in, they would like to do legislative requests for the acceptance of the grants and the appropriation of the electronic pollbooks at the same time because if they are done in separate months, timing could be an issue.

Mr. Kulisek stated that they are seeing a decrease from \$1.3 million to \$500,000.00 from what was originally presented.

Mr. Kulisek asked about the process of the electronic pollbooks at night. Ms. Vandemark replied that they are locked in cages located at the voting sites.

Mr. Tucker asked if the \$500,000.00 from the state would be two different sets of funding and would the electronic pollbooks come out of capital. Ms. Vandemark replied yes.

Mr. Tucker asked for the number of elections in 2020. Mr. Green replied three.

Mr. Kulisek moved resolution approving the consolidation of New York State Vital Statistics Registration Districts 3531 and

3562 into one district (Town of Mount Hope and Village of Otisville), seconded by Mr. Paduch.

Ms. Bonelli asked if they were anticipating other municipalities doing this consolidation and could they do a blanket resolution. Legislative Counsel Reed replied no, as it would be done at the discretion of the municipality.

Motion carried. All in favor.

Legislative Counsel Reed presented the committee with a brief update on iCompass. The Department of Information Technology has been working on live streaming and have determined what equipment is available in the Legislative Chamber to do so, and they will be conducting a demonstration tomorrow for office staff.

The meeting adjourned at 4:53 p.m.