

**RULES, ENACTMENTS AND INTERGOVERNMENTAL RELATIONS COMMITTEE**  
**MINUTES**  
**WEDNESDAY, JULY 19, 2023**  
**3:30 P.M.**

PRESENT: Paul Ruszkiewicz, Chairman  
Barry J. Cheney, Thomas J. Faggione, Kevin W. Hines, Michael D. Paduch,  
Kathy Stegenga

ALSO

PRESENT: Katherine E. Bonelli, Chairwoman  
Richard B. Golden, Esq., County Attorney  
Carol C. Pierce, Esq., Deputy County Attorney  
Alan Sorensen, AICP, Commissioner of Planning  
Erin Sztendor, Budget Analyst

Mr. Ruszkiewicz opened the meeting at 3:30 p.m. and requested everyone stand for the Pledge of allegiance. All members were present with the exception of Legislator Sierra, who was excused and Legislator Amo, who was absent.

On the agenda was an overview of the Law Department from County Attorney, Richard B. Golden.

Mr. Golden provided a brief status update on the various counties five pending litigations with respect to the homeless that were sent to Orange County by the City of New York. A decision was received on the litigation for Onondaga County for which the City of New York said that all the upstate counties and their lawsuits should be combined into one lawsuit in New York City for a New York City Judge which they and the other counties opposed. This was a good decision for Orange County, and he would be surprised if they did not receive a similar result. The judge was plain and direct as New York City argued that to not consolidate these in New York City would be a waste of judicial resources; however, the judge stated that it was a waste of judicial resources for them to try and bring all these other actions from elsewhere to New York City and start a new action. The judge also rejected the city's argument that this all arose out of facts that started in New York City and migrants being sent to New York City. The judge took issue with that and said no, what is being challenged in the lawsuits is not something that started in New York City but that they sent people upstate and the upstate county executives who have issued their various orders and you are challenging those orders. Therefore, the relative facts are the challenge to those orders. While this does not apply to Orange County yet, it is a good sign as that was the lawsuit that concerned him the most. If they were all before a New York City judge they could try and unwind the preliminary injunction they have with the City of New York, so he is cautiously optimistic. This action was originally started in the Law Department; however, with the number of pending litigations and the various resources required the need for outside counsel became apparent. BleakleyPlatt, Attorneys at Law from Westchester County were retained and for the month of June, they submitted invoices for approximately \$38,000.00 for all cases combined.

Mr. Hines asked what jurisdiction rendered that decision. Mr. Golden replied that it was from New York City.

Mr. Golden presented a brief overview of the County Attorney Handbook and the role of the Law Department in representing the County (on file in Clerk, Legislative Office). He explained that the handbook was written for the orientation of new attorneys to understand their role. It depicts the history of county government, functions of the two branches, balance of power, scope of their role, importance of understanding the various Executive Branch units (departments, boards, offices, agencies), litigation rules, prosecution of juvenile delinquents, prosecution of neglect for the Department of Social Services and special needs trusts.

Mr. Cheney referred to the second paragraph on page 7 of the handbook. He asked for clarification on the section that reads, "nor may they waive attorney-client privileges". Mr. Golden replied that under the Charter and Administrative Code they represent the entirety of the executive branch. When you represent an entity, the question is who the client is and who has the ability to waive or invoke attorney-client privilege. In this instance the only person on the executive branch side that can waive attorney-client privilege is the County Executive not a department.

Mr. Cheney asked how that would apply to the legislature and departments coming to the statutory committees. Mr. Golden replied that a department would not have the ability to waive confidences and/or advice they have from the law department. As a matter of course a great deal of advice is given and not sensitive in nature and they would be allowed to share that information under the Charter and Administrative Code.

Mr. Cheney referred to the first paragraph on page 16 of the handbook and asked who has the right to sell county property. He reads it as the County Executive and Executive Branch could do so without the legislature's approval. Mr. Golden replied that if they did, he believes it would be challenged as to whether or not despite what is written in the Charter and Administrative Code it has been a matter of practice and interpretation of the Charter and Administrative Code that it is a dueled responsibility shared by both branches of government.

Mr. Cheney commented that according to the Charter and Administrative Code that would not be the case. Mr. Golden replied that it does not address it as it is silent on the transfers of real property interests. The argument could be made because the County Executive has the power of contracts to the exclusion of the Legislature and since all real properties must be in the form of a contract an argument could be made that the County Executive and Executive Branch could hold on to that power but there is no provision in the Charter and Administrative Code that the County Executive has that power.

Mr. Faggione commented that this was a great reminder of the importance of their Charter and Administrative Code. It says what each role of government is and in certain situations the Charter and Administrative Code is silent. He encouraged his colleagues to read the handbook which is a great tool and depicts the role of the legislature, executive branch and departments.

Mr. Golden emphasized that this is his version of the balance of power, and they should rely on their Legislative Counsel's advice.

Discussion ensued regarding the transfer of county-owned real property to an outside party, as a Charter County it, has been a shared role with the Legislature having the ability to weigh-in on certain terms, Legislatures rights in selling county-owned property, county-owned property is owned by the County of Orange, acceptance and/or transfer of property must be done by both

branches of county government, law requirements, municipal finance laws and the power of the Legislature.

Ms. Stegenga referred to page 7 of the handbook and any differing interpretations between Legislative Counsel and Attorney for the executive branch. Mr. Golden replied that the Legislature is to follow the advice of their Attorney and the Legislature is directed by the County Executive on their legislative functions.

Mr. Faggione moved to request approval for the Planning Department's DBE (Disadvantaged Business Enterprise) Program which is required to be maintained due to Federal Transit Administration Regulations. The program is subject to amendment as necessary to ensure compliance with Federal Law and FTA regulations governing the subject matter of such programs. This request is to officially approve 2023 program updates, seconded by Ms. Stegenga.

Motion carried. All in favor.

The meeting adjourned at 4:04 p.m.