

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

**WEDNESDAY, SEPTEMBER 18, 2019
3:30 P.M.**

PRESENT: Thomas J. Faggione, Chairman
Michael Amo, 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
Kevindaryán Luján, Legislator
Joseph J. Minuta, Legislator
Rob Sassi, Legislator
Janet Sutherland, Legislator
Harold J. Porr, III, Deputy County Executive
Langdon Chapman, County Attorney
Irina Gelman M.D., Commissioner of Health
Michael Ventre, Deputy Commissioner of Health
Erik Denega, Commissioner, Department of Public Works
Donna McCarey, Deputy Commissioner, Human Resources
Alison Tyack, Director of Personnel Management, Human Resources
Deanna Crawford, Budget Analyst
Michelle Hook, Vice President of Public Affairs, Danskammer Energy LLC
Todd Diorio, Hudson Valley Building Trades Council
Alfonso J. Squitieri, RPh., Neighbor Pharmacy, Slate Hill
Mark Freitas, RPh., Washingtonville Pharmacy

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.

Mr. Faggione noted that Agenda Item No. V. would be addressed first.

Mr. Hines moved resolution of the Orange County Legislature in support of a new power plant facility at the former Danskammer Energy site in Newburgh, New York, seconded by Mr. Faggione.

Chairman Brescia addressed the committee stating he has brought forth a resolution in support of Danskammer and introduced Michelle Hook, Vice President of Public Affairs, Danskammer Energy LLC and Todd Diorio, Hudson Valley Building Trades Council.

Chairman Brescia explained that Ms. Hook has met with several legislators and presented the positives of the project. He added that one of the WHEREAS's in the resolution states "...Governor Andrew Cuomo stated on July 19, 2019 that fossil fuel infrastructure is not at odds with the state's goals right now, and we cannot do away with traditional generation sources until we have alternatives available, and right now they are not, and he added, you cannot end fossil fuels until you

have an alternative...". With the closing of Entergy the tax impact to the Towns of Newburgh and Marlboro and the Marlboro Central School District took an approximate hit of \$10 million. This project proposes \$50 million in tax revenue over the next twenty years, construction jobs and reduction in fuel emissions of about 80% and they understand that the facility will be operating longer hours than the existing facility.

Ms. Hook added that Indian Point provides about 16 million megawatt hours of power with 13 million annually being made up by Cricket Valley Power Plant and Competitive Power Ventures (CPV) if they run it at full capacity all the time. This then leaves about 3 million megawatt hours that need to be made up by the three older plants in the region with all three older being older generation. They are all gas guzzling and there is not enough supply to the three to make up the supply resulting in oil being used to make up the difference for Indian Point. Even with the plant running more often they will see a net improvement of 20% to 30% for air emissions regionally with the new Danskammer. They are not only offsetting the old Danskammer but other older generations namely Bowline and Roseton.

Chairman Brescia added that most legislators support wind powered energy as well as solar, but they would need 9000 acres of solar fields to equate what would be in the Danskammer proposed project. He has also spoken to Town of Newburgh Supervisor Gil Piaquidio who indicated that their town board, Town of Marlboro and the Marlboro Central School District support the Danskammer project.

Chairman Brescia encouraged the committee to pass this resolution as they will need affordable energy when Indian Point closes in the near future. He understands the debacle over CPV and the corruption in Governor Cuomo's office but Danskammer has been forthright and transparent with some of the opposition groups.

Mr. Cheney asked if Bowline and Roseton would be shut down if Danskammer were to come online. Ms. Hook replied that she cannot speak for other companies, but they would run a lot less if at all. They would probably remain as peaker power plants and be on standby for extremely hot days when additional power is needed.

Mr. Cheney noted that one of the WHEREAS's speaks to the reduction of emissions and are they comparing the new plant with the old Danskammer or the current Danskammer that is only running for peak power on limited time.

Ms. Hook replied that it is per kilowatt hour and the emission reduction is based on an hourly basis. They cannot conduct a comparison on the existing Danskammer plant that runs less than 5% of the time to the new plant that would likely run 60% to 70% of the time. They are currently in the middle of reliability studies to determine how much they would run. They need to compare it to what they would run when Indian Point goes down. The old Danskammer would run 20% to 30% of the time when Indian Point goes down; however, the new Danskammer would run 60% to 70%. The drastic decrease in emissions from the new plant of 80% to 90% depending on the emission would still be a net gain.

Mr. Cheney emphasized that it was on kilowatt hour and not the total tonnage for a year.

Ms. Hook reiterated that it was still a gain.

Mr. Kulisek stated that as a retired member of the plumber and pipefitters union and who holds the title of president of that local union, he will be removing himself from any discussion and vote pending an advisory determination from the Orange County Ethics Board.

Mr. Amo asked for a comparison on the environmental issues between Competitive Power Ventures (CPV) and Danskammer. Ms. Hook replied that one of the environmental issues with CPV was that they could not get the natural gas and therefore ran on oil for a long time which is very dirty. Due to the lack of natural gas that diesel oil burned people's eyes, caused throat irritation and respiratory issues; however, beyond that she was unaware of any other environmental issues.

Mr. Amo asked if Danskammer would also have that issue. Ms. Hook replied no, they are an existing infrastructure, they do not need a pipeline or transmission lines as they are a ground field site. They would receive their gas from Central Hudson the same as any other Central Hudson customer.

Mr. Amo added that he would be voting yes today; however, he would like to hear from the people who represent the towns of Newburgh and Marlboro and the Marlboro Central School District or he would be voting no at the legislative session.

Mr. Paduch stated that in the interest of full disclosure he is a member of local 373 with several members working on this project. He will be abstaining as he is waiting on an opinion from the Orange County Board of Ethics.

Ms. Bonelli asked for clarification on the additional WHEREAS with respect to the battery storage facility. Ms. Hook replied that they recently entered into RFP's for battery storage. They hope to use the old building once the turbines have been removed and to put battery storage in. The facility is large, climate controlled and sits on the transmission line and a perfect site for battery storage. They are also looking to increase their viability and feasibility beyond when natural gas may be needed. Once they meet the targets for New York State they still want to remain viable with battery storage.

Ms. Bonelli commented that while both municipalities have publicly stated that this will be good for their communities and Orange County, they need to be visible at the legislative session on October 3, 2019.

Mr. Vero noted that this resolution would only support the project, but it will not determine if the project goes forward or not as that will be left up to the Town of Newburgh. He will be voting no on this resolution as they should not be telling the Town of Newburgh what they should be doing by resolution. In his opinion, this is a Town of Newburgh decision.

Chairman Brescia clarified that the New York State makes the decision under Article 10.

Mr. Luján stated that he has spoken to Ms. Hook and various environmental groups over several months. He has found that the stats and reports do not link with one another and makes it difficult to make a determination. He has packets available (see original minutes) that show alternative conversations; there are approximately seven communities that have expressed concerns and indicated that they do not want this to go forward. He was at recent meeting in the city of Newburgh where many laborers came out to support this; however, the community members from his and Legislator Kulisek's district adamantly oppose this project because of concerns to air and

water quality, livelihood, landscape of Orange County, proximity to water and was this something they actually need. He has found that many studies show that it may not be needed, and they are talking about \$500 million being spent on a project that could be spent in other ways. He would encourage his fellow legislators wait as the labor unions out of the city of Newburgh have argued that they should wait until the application has been moved forward and all the facts have been established before making a decision.

Chairman Brescia disagreed with Legislator Luján's comment on laborers requesting they wait as a labor representative is currently at the table and endorsing this project.

Ms. Hook explained that Danskammer has presented all the facts with the only difference being that, to date, the city of Newburgh council members have not met with her nor would they take any information from her. They took that to mean that if they were not going to believe her with the information then they could wait for the environmental studies to be released.

Mr. Faggione agreed with Legislator Luján that there is a lot of data available as he has also read a great deal of it. He takes pride in the fact that when he comes to a meeting, he is prepared.

Motion carried 5-2-2 with Legislators Amo, Bonelli, Hines, Faggione and Brescia voting in favor, Cheney and Vero voting against and Legislators Kulisek and Paduch who abstained.

Ms. Bonelli moved confirmation of appointment to the Orange County Board of Ethics (D. Clarino), seconded by Mr. Kulisek.

Mr. Kulisek stated that he has known Mr. Clarino for many years and supports the appointment.

Motion carried. All in favor.

Mr. Kulisek moved request to accept a grant from NYS Office of Legal Services in the amount of \$23,848,325.55 over a five-year period from April 1, 2018 through March 31, 2023 and appropriate funds in the amount of \$1,589,888.37 for year one from April 1, 2018 through March 31, 2019, seconded by Mr. Paduch.

The funding will be broken down as follows: 1) Legal Aid for additional attorneys, fringe benefit costs, office space, funds for investigators, consultants, and experts associated with all their cases; 2) 18B for a second chair program, mentoring program, technology and increased fees associated with the legal aid administrator; 3) To hire a data officer that will interact with legal aid and the 18B program and tracking everything associated with the grant. This is all through state funding. He will be requesting that they retain the current administrator and not go through another procurement.

Legislative Counsel Reed asked how long it would be extended. Mr. Chapman replied for the remainder of his existing contract.

Chairman Brescia expressed his outrage that a fraction of this grant could not have been given to the District Attorney's office and Probation office. Leadership will be struggling during the budget process on how to fund all the ramifications that have been bestowed upon them. It is shameful that all this money is going for criminal defense and not one penny is going to the other side.

Mr. Cheney commented that the grant totals \$24 million but they will only be bringing in \$1.5 million for the first year and with the amount increased over the next few years. Mr. Chapman replied yes, the first year will be \$1,589,888.37 and that amount will grow annually by the same \$1.5 million, so next year it will be \$3.2 million, \$4.7 million, \$6.3 million and the final year will be \$7.99 million.

Mr. Kulisek was pleased to see that the state was stepping up with this funding and would the data officer be strictly for this program or would they be split between the County Attorney's office and Legal Aid. Mr. Chapman replied that they would be included in his department budget, but he was unsure as to where they would be physically located.

Motion carried. All in favor.

Mr. Kulisek moved request to create one (1) Indigent Legal Services Data Officer, Grade 15, seconded by Ms. Bonelli.

Motion carried. All in favor.

Mr. Amo moved resolution of the Orange County Legislature in support of Senate Bill No. S6531 and Assembly Bill No. A2836A, amending the Public Health Law and Insurance Law to provide registration and licensure of pharmacy benefit managers in NYS, seconded by Ms. Bonelli.

Mr. Faggione added that this resolution passed unanimously at the Health and Mental Health committee meeting.

Ms. Sutherland introduced Alfonso J. Squitieri, RPh., Neighbor Pharmacy, Slate Hill and Mark Freitas, RPh., Washingtonville Pharmacy.

Mr. Freitas explained that it would provide oversight Pharmacy **Benefit Managers** (PBMs) who have done a great deal of damage to independent pharmacies who are suffering greatly. Currently the PBMs have no oversight and can do as they chose. This was brought to their attention through a study conducted in 2017 that shows that they overbilled New York State Medicaid by using spread pricing in the amount of \$300 million with both taxpayers and local counties sharing the burden. **Spread pricing occurs when health plans contract with pharmacy benefit managers (PBMs) to manage their prescription drug benefits, and PBMs keep a portion of the amount paid to them by the health plans for prescription drugs instead of passing the full payments on to the pharmacies. As**

a result of this many independent pharmacies are suffering and are damaging New York State and the taxpayers of New York State. The bills in the senate and assembly will provide an avenue to enforce transparency and the ability to fine them if they do not comply as they currently have no measure to hold them accountable. The bills have passed both the senate and assembly; however, Governor Cuomo has not signed it and they are hoping that with their support it will give him a little push.

Mr. Faggione added that this resolution passed unanimously at the Health and Mental Health Committee.

Ms. Sutherland asked Mr. Freitas about the overcharging in the State of Ohio. Mr. Freitas replied yes, \$224 million on medicaid managed care.

Mr. Freitas added that one of the major pharmaceutical chains owns one of the billing agencies which is a huge conflict of interest and they control over 80% of the prescriptions across the country they need to be regulated if they are not going to be overseen. They are also steering them from local pharmacies and to the PBMs pharmacy known as a specialty pharmacy and at that point they have no idea what they are billing as it is all proprietary information and in Orange County, they have 80,000 under medicaid managed care. This was included in the governor's budget and the bill being presented to him is in all probability the strongest in the country. They need to go to transparent PBMs so that everyone can see what everyone is being paid; however, they currently do not have that.

Mr. Amo stated that New York State pays approximately \$60 billion a year in medicaid and while Orange County works at finding medicaid fraud it is peanuts compared to this corporate fraud and what other services are they losing to provide health care.

Mr. Amo asked for the impact this has on a small pharmacy. Mr. Squitieri replied that in October 2017, items on their shelves could not be replaced as they literally changed their Maximum Allowable Cost (MAC) list and/or the reimbursement schedule. They can basically overnight flip the list and the next day they are not being paid and losing money. Pharmacies in the inner cities where people walk to get to a pharmacy now cannot get their prescription filled because the pharmacy cannot buy it for what they will be reimbursed resulting in people not having their prescriptions filled.

Mr. Freitas added that both he and Mr. Squitieri's pharmacies offer other services that are not provided by the larger chains as they deliver to senior housing projects, conducting flu shots at the senior housing.

Mr. Hines asked about mail order versus local pharmacy services. Mr. Squitieri replied that they offer special deals on mail order.

Mr. Hines asked if it pertains to this issue. Mr. Squitieri replied yes, because when someone receives a three month supply, the patient is billed for two months with the plan's sponsor responsible for the third month.

Mr. Hines asked for clarification on what they are seeking with this resolution. Mr. Squitieri replied that they are looking for support to get PMBs regulated, pay the pharmacies for their services, pay for the cost of material and when used as a processor they must show the plan sponsor

all the rebates that are coming back from the drug companies that they negotiated with, how much they are paying the pharmacy and their cut.

Mr. Hines asked for an example of a PBM. Mr. Freitas replied CVS Caremark.

Mr. Hines asked if the governor has not signed the bill because of lobbyists for the PBMs. Mr. Squitieri replied that they believe that is the case.

Mr. Hines asked if this would lower healthcare costs in New York State. Mr. Squitieri replied technically yes, as the insurance companies must charge higher premiums to cover the drug end of it.

Ms. Sutherland added that she would forward the report from Senator Skoufis and the New York State Senate – Committee on Investigations & Government Operations on the Pharmacy Benefit Managers in New York (on file in the Legislative Office) to all legislators.

Motion carried. All in favor.

Mr. Paduch moved resolution of the Orange County Legislature opposing Governor Cuomo's proposed regulations requiring new license plates and fees, seconded by Mr. Hines.

Mr. Faggione commented that recent news reports have stated that Governor Cuomo has rescinded the plan on proposed regulations requiring new license plates and fees. He suggested the following: "As with Albany they never know, he requests that the vote on this and let Albany hear the voices of Orange County Residents who depend on their vehicles everyday and that they do not need yet again another burdensome tax or fee."

Mr. Minuta addressed the committee and explained that this draft resolution came about from Fulton County with Rensselaer County also jumping on the band wagon. This came through a report he saw on channel 12 news last week. New York State is continuously bringing forth these ideas and plans for a "money grab." They have all seen the unfunded mandates from the state as they love to say yes to everyone so that they look good and they at the local level look bad for having to charge the fees and taxes on it. According to Senator James Tedisco the license plate cost would be \$2.3 million per year and New York State would reap more than \$70 million revenue windfall from a \$25.00 per plate fee. This would be a huge money maker for the state and their local constituents do not need to pay anymore than they are paying in New York State. They already have people moving out of the state and he would encourage his fellow legislators to support this resolution. He understands that some of the wind has been takeout of this with the governor pulling back; however, it has provided counties with the ability to band together and provide the domino effect mentioned in the channel 12 news report.

Chairman Brescia and Legislator Mr. Amo offered their support.

Legislative Counsel Reed added that County Clerk Annie Rabbitt has asked to be included in this resolution.

Motion carried. All in favor.

Mr. Cheney moved Orange County Resolution –
Statutory Changes to Definition of Elevated Blood
Lead Level, seconded by Mr. Faggione.

Dr. Gelman explained that this was discussed briefly at the recent Health and Mental Health committee meeting. This unfunded mandate will go into effect on October 1, 2019 with the elevated lead blood levels calculated at 5 micrograms per deciliter versus the previous 15 micrograms per deciliter. This will have a significant impact to their operations and workload but there will be a second impact to their early intervention services due to the increase of referral cases. This was an evidence-based move and a precedence set by the Center for Disease Control (CDC); however, the expedited nature is problematic. Historically from 2014 to 2018 on average they have seen approximately 30 cases per year that were followed in both environmental health and community health outreach division. The New York State Department of Health has indicated an increase of 277 in addition to their current average per year; however, based projections from their community outreach division and environmental health division of 374 cases they are looking at an increase cost for nursing under community outreach of \$713.00 per case and environmental management of \$2,123.00 for a total of \$1,060,664.00.

Mr. Faggione asked for clarification that there would be no additional funding from New York State. Dr. Gelman replied no.

Mr. Hines asked as a physician would Dr. Gelman support this mandate if it was funded. Dr. Gelman replied yes, as the expedited nature and by not phasing it out in gradual decreases it is problematic in terms of operations and compliance.

Mr. Hines asked if Dr. Gelman would support phasing it in. Dr. Gelman replied yes and/or delaying the implementation.

Mr. Hines asked about the affects on children between 5 micrograms per deciliter and 15 micrograms per deciliter. Dr. Gelman replied that it can affect IQ, attention span and academic achievement and with the decreased lead levels it would be more rapidly apparent.

Mr. Amo added that the Public Health and Mental Health committee at NYSAC addressed this issue at great length at the recent conference. All members agreed that this would never work, and something that they must talk to New York State about and asked that all members go back to their local legislatures with this. They do not want to say "Don't do this" because it is a good thing; however, the issue is funding and the unreasonable start date of October 1, 2019. At that point they will be required to look at those 374 cases but where are they to get that staff and equipment and what risk is the risk to the county if they miss a case. The Public Health and Mental Health committee suggested they wait until April 1, 2020 and to get through another budget cycle and to provide breathing room for them to plan.

Mr. Kulisek asked prevention guidelines. Dr. Gelman replied that they are currently working with the Board of Health on what can be done such as local codes in order to address some of the environmental factors. On the environmental health side, it is not just the water or lead lining in the water as the trace amounts, they find in water fountains are not enough to contribute substantially as the individual would have to drink gallons from the fountain over a week. A great is from behaviors and children ingesting lead paint in older homes. In addition, they are looking into

and examining a new implementation that they can so to address this on the preventive end. They are also seeking guidance and clarification from New York State with respect to case prioritization.

Mr. Cheney commented that New York State is the first to drop it to 5 micrograms per deciliter and he expressed concerns with the state's need to implement this so quickly. He agrees that it is necessary, and they need to ensure that it is implemented as soon as possible as it is a matter of the health and welfare of the residents of Orange County. He wishes they did not have to struggle with the costs, but he supports the program and will support this resolution.

Mr. Kulisek asked if this was included in next year's budget. Mr. Ventre replied that they are discussing that with the County Executive.

Motion carried. All in favor.

The meeting adjourned at 4:40 p.m.