

RULES, ENACTMENTS & INTERGOVERNMENTAL RELATIONS COMMITTEE
Held In Room 318
PUTNAM COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512

Members: Chairwoman LoBue, Legislators Tartaro & Wright

Tuesday February 18, 2014
(Immediately Following the Personnel Committee Meeting Beginning at 6:30 P.M.)

The meeting was called to order at 7:36 P.M. by Chairwoman LoBue who requested that Legislator Wright lead in the Pledge of Allegiance. Upon roll call, Legislators Tartaro, Wright, and Chairwoman LoBue were present.

Item #8) Approval/Memorialization/Yates County Resolution Supporting the Passage of Legislation to Allow the New York State and Local Primary Election to be Conducted on the Fourth Tuesday of June Each Year Commencing in 2014 and There Forward thus Coinciding with the Federal Primary Election

Chairwoman LoBue invited the Board of Elections Commissioners Scannapieco and Croft forward to discuss this item.

Chairwoman LoBue made a motion to accept the additional for this item, seconded by Legislator Wright. All in favor.

Commissioner Scannapieco stated that he knew nothing about the Yates County Resolution until the Legislative Office sent it to him. He stated that the Yates County Resolution memorializes NYS Assembly Speaker Silver's bill calling for a June Primary. He stated that at the Elections Commissioner Association they discussed the proposed June Primary and it is his belief that it is not going to happen. He stated that the Association changed the proposal to "The Election Commissioners' Association supports a unified Federal and State primary election that is MOVE Act compliant and urges the Legislature to reach agreement on such a date as soon as possible to create certainty for the Boards of Election and the electorate throughout the State of New York." He stated that means that besides June and September there is also the months of July and August and that we need to come to an agreement.

Chairwoman LoBue asked him to explain to everyone what the issue with the September primary is.

Commissioner Scannapieco stated that the September primary is not MOVE Act compliant. He stated that the MOVE Act requires 45 days before the election, whether it is the primary or the general election, to mail out the military and absentee ballots. He stated that as it stands it is 41 days from the time we count absentee ballots. He stated that there is a statute that we are supposed to mail them out in 32 days and we have not met that in years past because of courts cases and challenges going on. He stated

that the Federal Government can only regulate Federal Elections. He stated that we wind up with a Federal primary in June and State primary in September which costs about \$50 million in NYS for this additional primary.

Chairwoman LoBue stated it would be huge cost savings for us to agree on one date.

Commissioner Croft stated that because Putnam County is so small that we are not such a large portion of that \$50 million but any cost savings for the County is a good thing.

Commissioner Scannapieco stated if the primary was in June then elected officials would be walking petitions right now for the primaries.

Chairwoman LoBue stated that this June primary is 10 days before July 4th and no one is around because school has wound down and people are on vacation.

Commissioner Croft stated that up until 1974 the primaries were held in June.

Chairwoman LoBue stated that we are not in favor of this memorialization that is on the agenda but she would like to move something forward in-concept that includes the language that Commissioner Scannapieco recited at the start of the conversation together with our council, opposing this memorialization.

Legislator Castellano asked what the other states do.

Commissioner Scannapieco stated that some states have always had a primary earlier than NYS, so it has not been much of a burden. He stated that NYS is the only state that had to go to court because they could not comply with HAVA.

Legislator Wright asked if there was any hope that the federal government would consider another time.

Commissioner Scannapieco stated that the judge would consider any date that applied with the 45 day rule. He stated that the judge set it at June but that if the Legislature could come up with a date that complies that is different then he would have no problem with it.

Legislator Wright stated it is mathematically conceivable for a July date.

Commissioner Scannapieco stated yes, even August would comply.

Commissioner Croft reminded everyone that if they felt the third week in June was bad because of vacations that July and August may be worse in that respect. She believes June would be better than July or August.

Commissioner Scannapieco stated that we need to do something.

Chairwoman LoBue stated that maybe we could roll it back a few weeks from where it is now in September to the end of August.

Commissioner Scannapieco stated that that was suggested as a compromise and it was not considered.

Legislator Tartaro stated that unless the State primary coincides with the Federal primary then there would not be a cost savings.

Commissioner Scannapieco stated that the judge stated if the date was chosen and complies with the 45 day rule then the Federal primary in that state would be held on the same day as the State primary.

Chairwoman LoBue asked if we were in agreement with the last two weeks of August.

Legislator Gross stated that he is not in favor of moving the primary to the last two weeks August because that is a big week of vacations leading into Labor Day Weekend. He stated he believes we should leave the September date alone. He stated that if we went to a June primary then we would need to walk petitions right now. He stated that it is a long, long season as it is right now and if the primary were in June then the season would be even longer. He believes September is the best alternative and that we should stay away from July and August because of vacations.

Chairwoman LoBue stated that she would like to send a memorialization opposing this resolution. She stated that after which we can discuss what date we might want to suggest.

Legislator Albano asked what the last day in August would be that would comply with the 45 day rule.

Commissioner Scannapieco stated he would need to check on that.

Legislator Albano suggested that we push the date to the latest possible time in August.

Chairwoman LoBue asked what the other Counties' Elections Commissioners were saying about this.

Commissioner Croft stated that we voted on that proposal but not many democrats voted for it.

Commissioner Scannapieco stated 17 Democrats voted for it and a couple abstained. He stated that at one point both parties had in their state by-laws that they could do a convention and neither one would do it because they were afraid the other side would back out all of their candidates. He stated that about four years ago they both changed their by-laws removing that option.

Chairwoman LoBue made a motion to move a resolution in-concept which would incorporate language opposing the June Primary date and including the language in the Proposal #1 that Commissioner Scannapieco read aloud, seconded by Legislator Wright. All in favor.

Item #3) Approval of Minutes – November 19, 2013

The minutes were approved as submitted.

Item #4) Approval/Re-Appointments/Board of Ethics/Delamere & Lotrecchiano

Chairwoman LoBue made a motion to pre-file the necessary resolution, seconded by Legislator Tartaro. All in favor.

Item #5) Approval/Re-Appointments/Home Improvement Board/Cusanelli, Harnish, Hull, & Diaz

Legislator Wright made a motion to pre-file the necessary resolution, seconded by Legislator Tartaro. All in favor.

Director of Consumer Affairs Jean Marie Noel stated that if any Legislators know of any individuals that would like to serve on any of the Consumer Affairs Boards to please encourage them to apply because every board has vacancies.

Chairwoman LoBue asked how often the boards meet.

Director Noel stated that they meet once per month.

Item #6) Approval/Local Law to Amend Article 7, Section 7.04 of the Putnam County Charter Entitled “Financial Control” (approved by December Audit Meeting then tabled from January Organizational Meeting)

Legislative Counsel Van Ross stated that a few years ago we changed the dates on the budget procedure to give the Commissioner of Finance more time to get estimates. He stated we have been operating under this new system for a few years and we have found as a Legislature that we need more time in the Committee process than the Full Legislature process and have thus suggested to move time from the Full Legislature process to the Committee process of the budget. He stated that this does not affect the final date of approval of the budget.

Legislator Oliverio stated that he is satisfied with the changes presented.

Legislator Wright stated that the Budget Committee is a Committee of the whole and it goes back to the Legislature loading itself up with perhaps an unreasonable burden come budget time. He stated that with some of these more complex issues that didn't require or command a sense of mathematically fair and computationally apportioned department-to-department, if we got some of those difficult issues out of the way earlier

then the Committees would have adequate time. He stated that the most dangerous part of this is leaving the last day to schedule the approval so close to when the County Executive budget would become law if the Legislature did not pass a revised budget. He cited bad storms, a power outage, another catastrophe that prohibits the approval meeting then the Legislature has foregone their responsibility to vote on it. He stated he recognizes that we do not need to wait to the last day but he feels there may be a time in Putnam County where the Chair schedules it on the last day and he is trying to avoid that. He stated that we are an appropriating body and with this change we run the risk of having a County Executive's budget and he feels that that does not keep in spirit with the Charter.

Chairwoman LoBue stated that in fairness, our Department and the Administration, work tirelessly to try to accommodate and to make sure that we are not in a position that we are up to the last minute. She stated that this gives us some flexibility and we should try it. She stated that if it does not work out then we can always change it back. She stated that the previous Chairman of the Personnel Committee, Former Legislator Anthony DiCarlo, initiated the process of asking Department Heads to come in before the budget process to discuss, with adequate time, personnel changes and issues.

Legislator Tartaro stated that Legislator Wright brought up very good points. He asked when the Legislature needs to adopt the budget.

Legislative Counsel Van Ross stated November 1st.

Legislator Tartaro stated that there is a possibility that we might not actually vote on it until October 31st and God forbid there is an emergency and the approval date is missed then we do not complete our fiduciary responsibility.

Legislator Oliverio stated that in the 18 years he has been here the Legislature has always adopted the budget a week in advance.

Legislator Tartaro asked if the Legislative Chairman sets the dates.

Legislative Counsel Van Ross stated that the Legislature adopts the budget procedure sometime in June and he explained what took place during the last budget season.

Legislator Nacerino stated that Legislator Wright's point is well taken but that she supports Chairwoman LoBue's position on this tonight. She stated if this change seems cumbersome or does not work then we can revert back. She stated that we need to keep lines of communication open especially with personnel matters, and that is a two-way street.

Legislator Tartaro made motion to pre-file the necessary resolution, seconded by Chairwoman LoBue.

By Roll Call Vote: Two Ayes. One Nay – Legislator Wright. Motion Carries.

- Item #7) Consumer Affairs/**
- Item #7a) Approval/Plumbing/Mechanical Trades Fee Schedule**
- Item #7b) Approval/Civil Penalty Schedule**
- Item #7c) Approval/Gas Inspection Fees**
- Item #7d) Approval/Home Improvement Board Fees/Civil Penalties Schedule**
- Item #7e) Approval/Electrical Board Fee Schedule/Violation Fines**

Director Noel stated that this was just a housekeeping “FYI” as far as she was concerned. She stated nothing has changed; they are the exact same fees. She stated she just wanted the Legislature to be aware of what the County charges.

Chairwoman LoBue asked Legislative Counsel what the protocol was for this process.

Legislative Counsel Van Ross stated that the fee schedules are adopted via resolution when there are changes to the fee schedule.

Legislator Tartaro asked for clarification on the “Worker on Jobsite with No ID.”

Director Noel stated that in the two years she has been there, no one has been cited for this but they are just reminded that each worker has to have some kind of an ID. She stated it also has an issue with worker’s compensation for small businesses.

Legislator Albano asked about the journeyman/helper cards.

Director Noel stated that for plumbers and electricians they are supposed to have cards.

Chairwoman LoBue asked about the gas inspections.

Director Noel stated that the County is phasing out this procedure and phasing it to the Towns. She stated that the responsibility is with the municipality. She stated all of the building inspectors can do this inspection. She stated that our County gas inspector is out on worker’s compensation. She stated that building inspectors are trained and responsible to do this. She stated the County was losing \$50,000 per year doing these inspections not to mention the liability. She stated that the Towns were happy to take it over. She stated that not all of the Towns have taken it over but most are in transition to do so.

Chairwoman LoBue stated that she will have this gas inspection item on next month’s agenda.

Legislator Nacerino asked Director Noel how the Towns are collecting these fees and if it is a universal fee schedule.

Director Noel stated that some Towns are doing everything and collecting the fees. She stated there is no universal fee schedule. She stated that each municipality votes on their own fee schedules.

Legislator Scuccimarra asked what the procedure is.

Director Noel stated that each municipality is already doing the inspections. She stated in order to collect fees they need to hold individual municipal public hearings and vote on fee schedules.

Legislator Wright stated that it would be good for the County to get out of the loop for miniscule fees and because it is not worth it for the liability. He asked if any building inspector has the inherent credentials to complete gas inspections.

Director Noel stated that yes; all building inspectors can complete gas inspections.

Item #9) Discussion/NYS Assembly Bill A.8211 – Relates to Limiting Participation by Public or Quasi-Public Organizations in the Retirement System

County Executive Odell stated that this bill came to her attention from NYSAC in December. She stated this particular bill is looking to dissolve certain association participation in the pension system. She stated that they have been part of the NYS pension system since the early 1900s. She stated that the original brush stroke for this bill painted these associations as lobbyists which they are not, they are advocates. She stated that lobbyists make campaign contributions and are partisan. She stated that advocates do not make campaign contributions and are bipartisan. She stated that it is important to note that this could be perceived as weakening our advocates to hinder future success of said advocates. She stated that she thought it was worthy of discussion.

Chairwoman LoBue agreed.

Legislator Oliverio agreed. He stated that NYSAC and other associations of that kind are advocates for the public and they advise and assist. He stated that they do not give money to campaigns.

Chairwoman LoBue stated that they keep us aware of all of the State bills that would impact us dramatically.

Legislator Albano asked what other reason there could be for the State to propose this bill other than to weaken these advocates.

County Executive Odell stated that there is no other reason.

Chairwoman LoBue stated that we are in opposition to this bill.

Legislator Wright stated that the format that this came to the Committee in should have been accompanied by an executive summary. He stated this item in particular seemed to lack any Reader's Digest version. He stated that he has come to believe that if someone with a mind and good will and purpose cannot condense that argument or

descriptive language into that paragraph or so then there is usually something wrong with the underlying argument. He stated it is too easy to attach what others have said.

County Executive Odell stated that you can always do what she did and call NYSAC and ask “what it does it mean?”

Legislator Albano stated that he agrees with Legislator Wright. He stated that when something comes in that form then it kind of tells him something.

Chairwoman LoBue stated that we are all in opposition to this proposed bill.

Legislator Albano stated he is not in favor of this bill.

Legislator Scuccimarra stated she is not in favor of this bill.

Legislator Oliverio stated that he is not in favor of this bill.

Legislator Wright asked if County Executive Odell sensed that NYSAC did not want to solicit an opposition resolution from counties.

County Executive Odell stated that they informed us that it was on the floor and how it would negatively affect their association and that if we as County Executives wanted to bring it back to discuss in our Counties then they encouraged us to do so.

Legislator Wright asked if this was at the NYSAC Conference.

County Executive Odell stated that no, this was at her NYSAC Board of Directors meeting in December.

Legislator Tartaro made a motion to approve a resolution, in-concept, stating that we oppose this State bill and copy all of our State Representatives, seconded by Chairwoman LoBue. All in favor.

Item #10) Approval/Resolution/Restriction of County Seal

Chairwoman LoBue stated that this item was discussed in the Protective Services Committee Meeting and during the meeting we spoke about broadening this memorialization but really this is in response to the NY SAFE Act and we must keep it in that context. She then read from County Clerk Dennis Sant’s memorandum dated February 18, 2014:

“It has recently come to our attention that the New York State Police, in furtherance of its Pistol License Recertification Initiative established by them under the NY SAFE Act, was considering the dissemination of correspondence to Putnam County pistols licensees with our Official County Seal. This office did not give such permission to the Superintendent of State Police nor the Governor of New York State to use our Official County Seal on any of their correspondence for any of their endeavors under the NY SAFE Act.

Under the above established principle illustrating that this office is the legal custodian of the Official County Seal of Putnam County, it is our opinion that we could have simply put the New York State Police and the New York Governor's office on notice, via correspondence, that they were not permitted by this office to use the Official Seal of Putnam County."

Chairwoman LoBue further stated that she is not in favor of the State using our seal on re-certifications.

Legislator Wright stated that we received another memorandum about the Seal itself and that someone ought to have the ability to just point to our Charter and say, "See the part where you need permission to use the Seal?" He stated that he does not understand how anyone outside of Putnam County Government would think they had the legitimacy to adopt our Seal.

Chairwoman LoBue stated that all of the surrounding counties are moving forward the same memorialization.

Legislator Nacerino stated that she agrees with County Clerk Sant's recommendation but asked what the consequence is for a violation of the Seal's use.

Chairwoman LoBue stated that that question is part of the next item's discussion and that she wanted to limit this item's discussion to the NY SAFE Act issue at hand.

Legislator Tartaro recited the second to last Resolved clause. He asked if we pass this then do we have the legal recourse if someone uses our Seal.

Director Noel detailed how the State of New York protects their State Seal.

Legislator Tartaro made a motion to pre-file the necessary resolution, seconded by Legislator Wright. All in favor.

Item #11) Discussion/Use of County Seal/Personal Advertisement by County Elected Officials

Chairwoman LoBue stated that she spoke with First Deputy County Attorney Negro today about some of the questions that arose from the Protective Services Committee discussions. She stated that the County Seal is not copyrighted and that the Legislature is actually the gatekeeper of the Seal. She asked counsel what the recourse was as well but counsel could not be present tonight. She cited County Law 404. She stated that there is no fine in place and that we would have to undertake litigation for mis-use. She stated she wanted to move this to next month because with the snow there really was not enough time for the Law Department to get something to us.

Legislator Oliverio stated that he was okay with moving it to next month. He stated his issue was an elected official using something that is the people's which he believes we are the guardians of the Seal which he believes is the people's Seal.

Chairwoman LoBue stated that there were discussions about various seals that are used and she does not feel comfortable without counsel here to discuss this item.

Legislator Albano stated that we can encompass all seals, past, present, and future, representing the County cannot be used.

Chairwoman LoBue stated that is why she had the NY SAFE Act issue separate.

Legislator Wright asked about Chairwoman LoBue's comment that the Legislature is the gatekeeper of the Seal.

Chairwoman LoBue stated that we will discuss it next month because in all fairness to the Law Department, we spoke on the phone.

Item #12) Other Business

Item #12a) Request Monthly Litigation Report from Law Department

Chairwoman LoBue stated that she would like to send a letter to the Law Department requesting a monthly litigation report to be placed on the Rules Committee Agenda each month beginning with the March Rules Committee Meeting.

There being no further business, at 8:44 P.M., Legislator Tartaro made a motion to adjourn, seconded by Legislator Wright. All in favor.

Respectfully submitted by Krista M. Butler, Administrative Assistant.