

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

Members: Chairman Sullivan and Legislators Addonizio & Albano

Thursday **June 20, 2019**
(Immediately following the Physical Services Mtg. beginning at 5:30pm)

The meeting was called to order at 6:15pm by Chairman Sullivan who requested that Legislator Addonizio lead in the Pledge of Allegiance. Upon roll call Legislators Addonizio & Albano and Chairman Sullivan were present.

Item #3 - Approval of Minutes – May 22, 2019

The minutes were approved as submitted.

Item #4 - Approval/ Urging NYS Legislature & United States Congress to Enact Legislation to Deter the Abuse of Robocalls

Legislator Gouldman stated he brought this topic forward last month as a result of receiving inquiries from constituents regarding what the County can do to decrease the amount of unwanted phone calls.

Legislative Counsel Robert Firriolo stated the resolution on tonight's agenda is similar to one passed by the New York City Council. He stated the resolution references a few pieces of legislation, one being the TRACED (Telephone Robocall Abuse Criminal Enforcement and Deterrence) Act, which was passed by the United States Senate in May by a 97:1 vote. He stated the TRACED Act is now being considered by Congress, making this resolution timely to urge our Congressional Representatives to move the bill forward. He stated the New York State bills do not appear to be moving and today is the last day of the State Legislative session, although it is possible for the bills to move forward by the end of the day. He stated if the bills are not moved forward, they will be reintroduced when the next session begins and this resolution will urge them to move the bills forward at that time.

Legislator Gouldman stated these phone calls are certainly a problem and he is happy to be able to do something to help.

Legislator Albano agreed. He suggested re-sending this resolution when the session begins again so it does not get lost in the meantime.

Legislator Addonizio stated a robocall that has become more frequent is the "neighborhood spoofing" phone calls. She stated these are calls from phone numbers

that look like they are local, but they are a scam. She stated it is important to do something about this issue.

Chairman Sullivan stated this is becoming a bigger and bigger problem.

Legislator Nacerino agreed. She stated this is a problem that is not only annoying, but can be troublesome.

Legislator Sayegh stated sending this resolution is a good idea and it is important to get this information out. She stated many of these scams are directed at senior citizens.

Legislator Castellano he has received phone calls at his day job from residents who have received a phone call from someone claiming to be from the IRS (Internal Revenue Service) and telling them they owe money. He stated people have also received telephone calls selling them things such as deeds at a high price. He stated this type of document can be obtained through the County Clerk's Office. He suggested posting information on the County website regarding unsolicited telephone calls because the more knowledge people have the better they can protect themselves.

Legislator Albano agreed with Legislator Castellano and stated he has seen notifications citing violations and penalty costs that are owed to the DOT (Department of Transportation). He stated they are a collection agency that charges more than the actual violation fee.

Legislator Castellano stated these scams are not illegal because a service is being provided, although the cost is much higher than it would normally be.

Chairman Sullivan made a motion to pre-file the necessary resolution; Seconded by Legislator Addonizio. All in favor.

Item #5 - Approval/ Fund Transfer 19T127/ Board of Elections/ Purchase 3 Voting Machines

Chairman Sullivan made a motion to approve Fund Transfer 19T127 to go to the Audit & Administration Committee Meeting; Seconded by Legislator Albano. All in favor.

Item #6 - Approval/ Local Law/ Amend the Putnam County Code/ Chapter 55 Entitled "Ethics, Code of, and Financial Disclosure"/ To Prohibit the Disclosure of Confidential Material

Chairman Sullivan stated it is not uncommon for the Legislators to receive confidential correspondence from various people or departments within the County. He stated he would like to address the rules pertaining to these documents so everyone is aware of the ramifications of disclosing confidential material to parties who are not privy to that information.

Legislator Sullivan made a motion to waive the rules and accept the additional;
Seconded by Legislator Addonizio. All in favor.

Chairman Sullivan stated the additional material is subsection 55-9 of the Code of Putnam County entitled "Penalties for offenses, disciplinary action." He stated he was surprised to see that item "c" under this subsection lists this as a misdemeanor.

Legislative Counsel Firriolo clarified that the Ethics Code has a penalty code for failure to file disclosure statements and other violations of County ethics rules. He stated when the issue arose of attaching a penalty to intentionally breaching confidentiality, it was determined that the natural fit for the provision was in the Ethics Code, which already had that penalty in it. He stated this new section regarding disclosure of confidential material is inserted into the Ethics Code and simply implies the same penalty and procedure.

Chairman Sullivan stated the purpose of this amendment is to tighten the rules around the handling of confidential information so it is not disclosed to anyone who is not privy to the material.

Legislative Counsel Firriolo stated the amendment being considered tonight does not affect the public's ability to access public records in any way. He stated this does not alter the obligations of the County to comply with FOIL (Freedom of Information Law); nor does it alter the decision making process. He stated the County Attorney's Office will still process FOIL requests and the public will still have the ability to appeal a denied request. He stated this strictly puts County officials and employees on notice that they have an obligation to safeguard confidential material and attaches a penalty to intentionally violating that confidence.

Legislator Jonke questioned if this applied only to written material. He stated the Legislature holds executive sessions where they may be verbally apprised of confidential information.

Legislative Counsel Firriolo stated the amendment goes beyond written material and establishes a very broad definition of what a "record" is. He stated the definition of "confidential material" includes any information contained in the record. He stated the prohibition on disclosure includes describing the information.

Legislator Jonke requested that clear language be added to this section stating that if an employee or Official is presented with any type of attorney-client privileged information and they improperly disclose that information, there will be penalties.

Legislative Counsel Firriolo stated a line could be added under the definition of "confidential material" that includes verbal attorney-client communications.

Chairman Sullivan agreed. He stated a lot of confidential communication is verbal.

Legislator Addonizio stated it could be difficult to prove a verbal dissemination of confidential material.

Legislator Nacerino stated she supports this legislation and believes it is necessary. She stated although this is not a constant issue, it is important to safeguard this information.

Legislative Counsel Firriolo stated he realized that he had previously revised the resolution to address Legislator Jonke's concern. He stated Section B. under the definition of "Confidential Material" lists any communication to and from the Putnam County Law Department, Legislative Counsel, or Outside Counsel should be presumed confidential material. He stated communication, even verbal, is covered by this.

County Attorney Jennifer Bumgarner stated when attorney-client privileged communication is in reference to one (1) on one (1) communication, it is the client's option to waive that right. She stated however, in an executive session setting when the County Law Department is providing legal advice and recommendation, the attorney-client privilege is a privilege held by the entire Legislative Body. She stated it seems unequitable for one (1) Legislator to be able to waive that privilege on behalf of the whole Legislature.

Chairman Sullivan stated the Legislature receives confidential information from various departments as well and it was important to make sure everything was covered in this amendment.

Legislative Counsel Firriolo stated that is correct. He stated this issue is broad as documents are sent to the Legislature from departments such as the Law Department and Sheriff's Department that are marked confidential for legal and law enforcement reasons. He stated these exemptions already exist within the FOIL law.

Legislator Montgomery questioned if this proposed local law is in response to her request to have an item on the agenda regarding a request she received from the press for a document mentioned at a Legislative Meeting. She stated requests were also made by constituents to have a similar discussion at a Rules Committee Meeting. She questioned when this local law was developed.

Chairman Sullivan stated no, this has been an ongoing problem for years even with past Legislators releasing confidential information.

Legislator Montgomery stated as mentioned earlier in the meeting, these rules are already established.

Chairman Sullivan stated correct, this amendment just tightens the existing rules.

Legislator Montgomery stated during the discussion at Legislative Meetings pertaining to the action to be taken in regards to the Reproductive Health Act, a confidential

document from Legislative Counsel Firriolo was referred to. She questioned if the reference of this document was in violation of this rule.

Legislative Counsel Firriolo stated attorney-client privilege is not violated by mentioning the existence of a confidential document or the facts within it. He stated disclosing analysis or opinions contained within the document would be a violation.

County Attorney Bumgarner agreed.

Legislator Montgomery stated she would have liked this item to be on the agenda for discussion first before being listed as approval. She stated if passed out of Committee, this local law will go to the Full Legislative Meeting in July.

Chairman Sullivan stated many items are listed on agendas for approval and the time to discuss it is during the Committee meeting.

Legislator Montgomery stated in her opinion, it would have been better for the public if this were on the agenda for discussion first. She questioned when a public hearing will be held for this local law.

County Attorney Bumgarner stated the County Executive holds the public hearing for local laws.

Legislator Montgomery clarified that if this local law is approved in Committee, it will go to the Full Legislative Meeting. She questioned when the public comment period is.

County Attorney Bumgarner stated tonight's Committee Meeting is an opportunity for the public to speak. She stated there will also be a public hearing.

Legislator Nacerino stated this issue was brought up several months ago and Chairman Sullivan indicated that he was working with both Legislative Counsel and the County Attorney to develop this legislation. She stated this is not a surprise tonight.

Chairman Sullivan stated that is correct.

Legislative Counsel Firriolo stated he wants to stress that this resolution does not have any effect on the public in the sense of regulating their behavior, conduct, or access to public records. He stated all it does is impose clear guidelines and restraints on County officials and employees as to their obligations that already exist to maintain confidential information. He stated it allows the Ethics Board to review instances and allows the Legislature to move forward with penalties if there is an egregious violation. He stated currently, no one (1) Legislator can waive attorney-client privilege to confidential material or attorney-client communications that have been shared with the entire Legislature. He stated enacting this local law does not create any new obligations or new restrictions on the County employees or officials and it certainly does not affect what the public is entitled to through FOIL.

Legislator Albano stated this is the proper way of doing business for any municipality; it is standard procedure. He stated there are things that are confidential that should not be disclosed until they are completely resolved and anything that is able to be obtained through FOIL will remain that way.

Legislator Jonke stated he has a responsibility to protect the information provided to him. He stated he does not understand why this could not move forward tonight.

County Attorney Bumgarner stated to follow up on Legislative Counsel Firriolo's statement, as much as she would frown on it, if the Legislature believed it was important to discuss attorney-client privileged information in a public meeting it could be done if the entire Legislative Body was in agreement to do so because it is the Legislature's privilege to waive.

Legislator Nacerino stated this local law is defining what should be honored. She stated it is necessary to document the rule. She stated the receipt of confidential information comes with the privilege of being an Elected Official.

Legislator Montgomery stated this is the policy she has always followed.

Legislator Albano made a motion to pre-file the necessary resolution; Seconded by Legislator Addonizio. All in favor.

Item #7 - Approval/ Litigation Settlement/ Treadwell vs. County of Putnam

Chairman Sullivan made a motion to waive the rules and accept the additional; Seconded by Legislator Addonizio. All in favor.

County Attorney Bumgarner stated discussion on this item will need to be had in executive session.

Chairman Sullivan stated this item will be addressed at the end of the agenda.

Item #8 - Discussion/ Attendance of Legislators at Non-Legislative Meetings and Compliance with the Open Meetings Law

Chairman Sullivan stated issues could arise when multiple Legislators attend non-Legislative events, especially if the Legislators are on the same Committee. He requested the Legislative Counsel Firriolo provide clarification on this rule.

Legislative Counsel Firriolo stated the topic of when Legislators may attend non-Legislative meetings and still be in compliance with the Open Meetings Law includes some clear-cut aspects as well as some murky aspects. He stated in the Department of State there is a Committee on Open Government which provides opinions to guide officials and the general public on compliance with FOIL and the Open Meetings Law.

He stated attached as backup is a copy of the Open Meetings Law along with sample opinions from the Committee. He stated there are hundreds of opinions available on the website and the reason for that is because the law is not entirely clear and they are trying as best they can to interpret the law and apply it to different situations. He stated these opinions are not binding; sometimes courts agree with them and sometimes they do not. He stated a question he is often faced with, along with the Legislative Clerk and staff, is if "Legislator 1" can attend a meeting if "Legislator 2" is going as well. He stated the first consideration is if there will be a quorum; five (5) Legislators make up a quorum of the Full Legislature, while two (2) Legislators serving on the same Committee make up a quorum of that Committee. He stated for example, Legislator Sullivan and Legislator Addonizio both serve on the Rules Committee and if they were going to a meeting of another body, board, or organization and they were going to be discussing an item of business that is likely to come before this Committee, there is a good chance that would be an improper meeting. He stated it would be improper because technically, there would be a convened meeting of the Rules Committee with a quorum, with no public notice. He stated any action taken on that business item could be found to be invalid in court. He stated if the same two (2) Legislators are at a Christmas party, for example, not discussing Legislative business, it would not be an improper meeting. He stated if two (2) members of the same Committee are attending a meeting unrelated to the Committee they serve on, it would not be an improper meeting of the Rules Committee, but is a gray area. He stated he and the Legislative staff try to advise the Legislators as best they can in these situations to avoid any problems. He stated an example is when many Legislators were interested in attending a seminar on blue-green algae, which is a topic that would potentially come before the Health Committee. He stated his advice was that the Legislators could attend, but they should not sit together or discuss the topic. He stated an analysis of each event is done to determine the best way to stay in compliance with the Open Meetings Law. He stated it can get murky and it is best to err on the side of caution to not violate the Open Meetings Law.

Chairman Sullivan clarified that Legislators are able to attend non-Legislative meetings to listen but should not comment or ask questions.

Legislative Counsel Firriolo stated attending to listen is the least innocuous, participating by asking questions is the next level, and discussion amongst Legislators would be highest level of concern.

Legislator Montgomery questioned what would prohibit a Legislator from noticing the meeting. She stated she believes this issue arose because she attended the Soil & Water Conservation Board Meeting. She stated she notified the Soil & Water Conservation Board that she would be attending with a constituent to introduce an organization two (2) weeks prior to the meeting. She questioned if the meeting could be noticed if a potential conflict is known ahead of time.

Legislative Counsel Firriolo stated the meeting would have to be noticed exactly the same way that all Legislative meetings are noticed; an agenda with backup would need

to be published and a member of the Legislative staff would need to attend the meeting to take minutes. He stated it would need to be an off-site meeting of the Committee.

Legislator Montgomery questioned if the person taking the minutes of the meeting would need to be a member of the Legislative staff.

Legislative Counsel Firriolo stated he believes the current Legislative Manual states the minutes are to be taken by the Legislative Clerk.

County Attorney Bumgarner stated Legislator Montgomery's question pertaining to noticing the meeting may work with a meeting held by a County agency or department, but would not work with a meeting being held by an outside organization such as a school district.

Legislative Counsel Firriolo stated this could also cause a logistical problem where a meeting being held by another entity is turned into a Legislative Meeting. He provided an example of a Plumbing & Mechanical Trades Board Meeting in this situation. He stated the Chairperson of the Legislative Committee would be running the meeting and dictating an agenda to the Chairperson of the Plumbing Board.

Legislator Sayegh stated as a point of reference, what Legislator Montgomery is referring to is a recent Soil & Water Conservation Board Meeting. She stated the Chairperson of the Board put out an agenda for that meeting including the organization referenced by Legislator Montgomery, but there was no indication that another Legislator would be attending. She stated the Legislators attending that meeting were unaware that Legislator Montgomery would be attending. She stated she spoke with the Chairperson of the Soil & Water Conservation Board to request that a matter that was before the Economic Development & Energy Committee, which she and Legislator Montgomery both are members of, be on the agenda.

Legislator Montgomery stated from that situation came a request for the Legislature to see the Board meeting agendas ahead of time.

Legislator Nacerino stated it is not the Legislature's purview to request all agendas from the Boards.

Legislator Montgomery stated these agendas are highly important because it is the work of the County and she would like to see them. She questioned if a policy in regards to this could be developed.

Legislator Nacerino stated it could be overkill to be inundated with information that is really just an "FYI" to the Legislators if it does not pertain to matters before the Legislature. She stated it is important that the Legislators avoid what is basically an illegal meeting.

Chairman Sullivan stated certain Legislators are appointed to the different Putnam County Boards and it is important to make sure no one is stepping on anyone else's toes. He stated questions pertaining to what was discussed in a specific Board's meeting can be directed to the appointed Legislator.

Legislator Nacerino stated topics discussed in Legislative Committees is not exclusively owned by any one (1) Legislator; it is under the Legislature's purview as a whole Body. She stated Legislator Sayegh brought a topic forward that was previously discussed at a Legislative Committee Meeting for discussion to the Soil & Water Conservation Board.

Legislator Castellano stated at the Organizational Meeting held in January, Legislators are appointed to the various Putnam County Boards. He stated these appointments are taken into consideration when the Chair of the Legislature creates the Committee assignments for the year in order to avoid potential conflicts with regard to the Open Meetings Law.

Legislator Montgomery stated the situation at the Soil & Water Conservation Board Meeting could have been avoided if she had seen the agenda. She stated she thought she was following the proper procedure by giving notice to the Board that she would be attending. She stated she was not aware that Legislator Sayegh and Legislator Nacerino were on that Board. She stated when she arrived at the meeting the item being discussed was one that had been discussed at the Economic Development & Energy Committee. She stated her concern and reaction was based on her initiative being placed on an agenda. She stated she believes it would have been common courtesy to have the Legislator who initiated the topic invited to participate in the overview. She stated in terms of procedure, she thought she had done her due diligence by sending a memorandum to the Soil & Water Conservation Board stating her intent to attend the meeting to bring and introduce an organization from within her Legislative District. She stated she was unaware that the Board would be discussing the topic she had brought to the Legislature.

Chairman Sullivan stated this local law is not specific to that situation.

Legislator Addonizio it seems that there was a misunderstanding.

Legislative Counsel Firriolo stated in a situation like that it could be arranged that the Legislator, Legislator Montgomery in this case, be present at the meeting for the specific agenda item she requested. He stated it was unfortunate that Legislator Montgomery was not listed on the agenda because there is no reason why she could not have been there for that part of the meeting. He stated he and the Legislative Clerk work hard to try to work these situations out. He stated the more information the staff has, the more help they can be.

Legislator Nacerino stated just because an initiative is brought forward by a specific Legislator does not mean it is the exclusive right of that Legislator. She stated if the

initiative pertains to business being addressed by a Board, it can be brought there by the Legislative representative of that Board.

Chairman Sullivan encouraged the Legislators to always check with the Legislative staff to find out if there are any conflicts before a meeting.

Item #9 - Update/ Veterans' Service Medal Advisory Panel

Legislator Castellano stated on June 6, 2019, the 75th Anniversary of D-Day, the Veterans' Service Medal Advisory Panel held their first ceremony to distribute medals to 24 Putnam County Veterans who served in World War II and the Korean War. He stated the ceremony was held at the Historic Courthouse and was standing room only. He stated the oldest Veteran was a 101 year old from Brewster who drove himself to the ceremony. He stated this Veteran shared his story, which was an interesting bit of history. He stated it was a very moving ceremony. He stated there are a number of older Veterans that are not well and therefore could not attend the ceremony. He stated in this case, the Panel will deliver the medal to the Veteran at their home, which they did for one Veteran the Sunday after the ceremony. He stated they also have another home visit lined up for the end of the month.

Chairman Sullivan questioned how the medals will be distributed moving forward.

Legislator Castellano stated the Veterans' Service Medal Advisory Panel is meeting tonight and will discuss how to distribute the medals moving forward. He stated he would like to do some smaller events perhaps at local VFW (Veterans of Foreign Wars) posts. He stated he would also like to have an event on Veterans' Day, November 11, 2019, which would be nearly 100 years since the first Putnam County Service Medal was given out. He stated they have also discussed having a parade based on the great turnout for the first ceremony. On October 19, 1919 a parade was held to welcome home returning service members and they were provided with the first Putnam County Service Medal. He stated the Veterans' Service Medal Advisory Panel began with 400 medals and have given out 25 so far. He stated he would expect to plan more fundraising events next year to purchase more medals. He stated there are over 200 applicants. He stated some more applications were submitted after the ceremony on June 6th. He stated the Veterans expressed their appreciation and gratefulness for the ceremony and medals.

Legislator Gouldman questioned if there have been any applications from Veterans who reside in Putnam Valley.

Legislator Castellano stated he would check the applications.

Legislator Albano stated he attended the ceremony and it was a very impressive event.

Legislator Nacerino stated it was a very nice ceremony and the Veterans' Service Medal Advisory Panel was very pleased to honor 24 Veterans, which was a much higher

number than originally expected. She stated the applications have been advertised and sent to local VFWs. She stated the June 6th ceremony hopefully helped gain more exposure. She stated the ceremony was well done and truly heartwarming. She stated it is a great privilege to be able to honor Putnam County's Veterans. She stated it was discussed to have smaller events within the Towns and to include the respective Legislator(s). She questioned if this plan would be followed throughout the summer. She stated Legislator Montgomery had mentioned there is a Veteran in her district she would like to honor.

Legislator Castellano stated he would like to have small events throughout the summer and will discuss this with the Veterans' Service Medal Advisory Panel.

Legislator Montgomery stated she attended the ceremony and it was a beautiful, moving event. She stated it was great to see so many people there. She stated she made an effort to get the word out about this within her district. She stated some Veterans she spoke with are wondering when they will be receiving their medal and she suggested providing an update to those who have applied.

Legislator Jonke thanked the Veterans' Service Medal Advisory Panel for the work they have done on this great initiative. He stated he spoke with a few of the Veterans from Southeast after the ceremony and they expressed their thankfulness that their community is recognizing their service. He stated many Veterans are hesitant to discuss their service and this event provided a space to let their guard down. He stated presenting medals at Town Board Meetings may be a good way to do this moving forward as well.

Legislator Castellano stated there was a Veteran from Cold Spring, Marvin Needleman who wanted to attend the ceremony but unfortunately was in the hospital with pneumonia. He stated according to his daughter, Mr. Needleman told his doctor he was leaving the hospital to attend the June 6th ceremony. He stated unfortunately, Mr. Needleman did not make it to the ceremony but it is his intention to arrange a time to present him with a medal at his home. He stated he was also been contacted by applicants regarding when they will be getting their medal. He stated the Putnam County Italian American Club reached out about five (5) of their members who are Veterans and their interest in holding a small ceremony. He stated perhaps other clubs in the area would be interested in holding similar ceremonies. He stated there are 5,000 eligible Veterans within the community to receive a medal. He encouraged everyone to like the Putnam County Veterans Medal Facebook page.

Item #7 - Approval/ Litigation Settlement/ Treadwell vs. County of Putnam – Continued

At 7:23pm Chairman Sullivan made a motion to go into executive session to discuss a litigation matter; Seconded by Legislator Addonizio. All in favor

At 7:41pm Chairman Sullivan made a motion to come out of executive session;
Seconded by Legislator Addonizio. All in favor.

No action was taken in executive session.

Chairman Sullivan made a motion to pre-file the necessary resolution; Seconded by
Legislator Albano. All in favor.

Item #10 - Other Business – None

Item #11 - Adjournment

There being no further business at 7:41pm, Chairman Sullivan made a motion to
adjourn; Seconded by Legislator Albano. All in favor.

Respectfully submitted by Administrative Assistant, Beth Green.