

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: LEGISLATIVE & RULES

DATE: MARCH 1, 2013

COMMITTEE MEMBERS PRESENT:

SUPERVISORS MONROE
GIRARD
WOOD
FRASIER

COMMITTEE MEMBERS ABSENT:

SUPERVISORS BENTLEY
MONTESI
SOKOL

OTHERS PRESENT:

MARTIN AUFFREDOU, COUNTY ATTORNEY
JOAN SADY, CLERK OF THE BOARD
FRANK THOMAS, BUDGET OFFICER
SUPERVISORS CONOVER

DICKINSON

KENNY

LOEB

MASON

MCDEVITT

STRAINER

TAYLOR

JACK DIAMOND, MAYOR, CITY OF GLENS FALLS

WALT LENDER, EXECUTIVE DIRECTOR, LAKE GEORGE ASSOCIATION

ZANDY GABRIELS, TOWN OF BOLTON RESIDENT

JOHN STROUGH, COUNCILMAN, TOWN OF QUEENSBURY

DAVE WICK, EXECUTIVE DIRECTOR, LAKE GEORGE PARK COMMISSION

THOM RANDALL, *ADIRONDACK JOURNAL*

TONY HALL, *LAKE GEORGE MIRROR*

DON LEHMAN, *THE POST STAR*

AMANDA ALLEN, DEPUTY CLERK OF THE BOARD

Mr. Monroe called the meeting of the Legislative & Rules Committee to order at 10:34 a.m.

Motion was made by Mrs. Wood, seconded by Mrs. Frasier and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

Copies of the meeting agenda were distributed to the Committee members, a copy of which is also on file with the minutes.

Mr. Monroe commenced the agenda review with the Pending Items section, noting that Item 1 pertained to a request for the County Attorney's Office to research the possibility of a local law requiring bars and pubs located in Warren County to close at 2:00 a.m., as opposed to 4:00 a.m. Mr. Monroe noted the agenda packet included a copy of the memo submitted by the County Attorney's Office, which he asked Martin Auffredou, County Attorney, to comment on. Mr. Auffredou summarized that if a local law were adopted to change the closing time, it would have to apply to all of the bars and pubs in Warren County. He said he had contacted the County Clerks of various neighboring counties to determine the bar closing times in each, all of which had reported to have a 4:00 a.m. closing time, except for Hamilton County which had a 2:00 a.m. closing time. Mr. Auffredou reported there had been some debate as to whether the Essex County bar/pub closing time was 3:00 a.m. or 4:00 a.m.; however, he said, the NY State Liquor Authority's website indicated that it was 4:00 a.m. In response to questions posed at a prior meeting as to whether facilities were allowed to remain open if the hour designated for closing time was changed to 2:00 a.m., Mr. Auffredou advised there were many 24 hour facilities that served food and alcohol and while they could remain open and serve food at any time, they would be prohibited from serving alcohol after 2:00 a.m.; however, he said, this might present some enforcement issues.

Jack Diamond, Mayor of the City of Glens Falls, apprised that the Glens Falls Common Council had unanimously approved a resolution calling for the closing time of bars and pubs in the City of Glens

Falls to be changed to 2:00 a.m., and he noted that resolution had been forwarded to the Chairman of the Board of Supervisors for his review, prompting the issue to be addressed by the Legislative & Rules Committee. Rather than discuss the matter further at the current meeting, Mayor Diamond respectfully requested that the issue be referred to the Board of Supervisors for discussion at their March 15th Board meeting, at which time a comprehensive discussion could be held on the issue where he could answer any questions the Board members might have on the subject. Mayor Diamond then thanked Mrs. Wood for reviewing the Common Council's request for a study on the proposed costs associated with consolidating the Glens Falls Police Department with the Warren County Sheriff's Office and he said he looked forward to reviewing the findings of both Sheriff York and the New York State Division of Criminal Justice Services.

Mr. Kenny opined that the bar closing issue was very important and deserving of a public hearing and the attention of the full Board of Supervisors; he added that he hoped the Committee would act in favor of Mayor Diamond's request and forward the matter on for further discussion at the next Board Meeting.

Mr. Monroe pointed out a portion of Mr. Auffredou's memo which indicated the Board of Supervisors would need to adopt a resolution and within the body of that resolution, cite findings to support a need to change the bar/pub closing hours. Mr. Auffredou agreed, noting that the State Liquor Authority would want to know the reasons behind the County's request for the mandated closing hour to be altered.

Mr. Kenny noted the data collected and presented at a prior meeting which showed the number of arrests made between the hours between the hours of 2:00 a.m. and 5:00 a.m. was compelling and encouraged a decision to be made in favor of the earlier closing time.

Mr. Taylor also urged the Committee to forward the matter on to the full Board of Supervisors for further discussion. He advised that the majority of the people he had spoken with were in favor of the earlier closing time and he said he had not received any contact from constituents indicating opposition to the initiative.

Mrs. Wood stated that although she was not in support of a resolution committing the Board's support for changing the closing hours before further discussion was held, she was not opposed to referring the issue for discussion and examination at the Board level.

Mr. Dickinson indicated that he had also spoken with some of his constituents on this issue and had not received any objections. He said he would be in support of the initiative, with the caveat that it be enacted on a State-wide basis so that Warren County would not be at an unfair disadvantage. Mr. Dickinson reported that he had received comments from two bar/pub owners who were not in favor of the change because they catered to customers from other businesses who visited their establishments in the late evening/early morning after their work shifts ended. He concluded that he was in favor of the referral to the full Board for further discussion.

Mr. Conover questioned whether it would be wise to authorize a public hearing on the matter in concert with the discussion at the Board level and Mr. Auffredou responded that once the Board had discussed the matter, they could decide whether a public hearing was necessary. Mr. Monroe noted that Warren County was not required to hold public hearings on the issue, but could hold one if they deemed it necessary; he added that the NY State Liquor Authority would hold public hearings on the matter before making their decision.

Following a short conversation, it was the consensus of the Committee to ask that the issue be included on the agenda for the March 15th Board meeting to allow further discussion and consideration of

changing the bar/pub closing time from 4:00 a.m. to 2:00 a.m., but without a recommendation from the Legislative & Rules Committee.

Resuming the agenda review, Mr. Monroe drew the Committee's attention to Action Agenda Item 1, which referred to discussion on the Governor's proposed pension option. He noted that the agenda included a chart distributed at the 2013 NYSAC (*New York State Association of Counties*) Conference indicating that local pension costs had increased by 1000% in the ten year period spanning from 2002 to 2012, rising from \$190 million to \$2.2 billion. Mr. Monroe said the Governor's proposal would offer financing plan rates ranging between 16.5% and 28.9% to finance the substantial pension cost increases. Mrs. Wood said she was not fond of the proposal as she felt there were a number of facets that could become drawbacks in the future. Mr. Monroe commented that this was an optional proposal available to each County so they could decide whether to opt in or out of this initiative. Mr. Auffredou suggested that the Committee refrain from taking any position on the subject until comments from the County Administrator could be made and Mr. Girard agreed that he would also like to hear comments from Chairman Geraghty. It was the consensus of the Committee that the item should be tabled for further discussion at a future meeting.

Mr. Monroe said another issue requiring discussion, which was not included on the meeting agenda, was the idea of casino gambling in Warren County and the State's compact with the Mohawk Tribe. Mr. Auffredou reported on the matter, noting that subsequent to his research, he had found that in 1993 the State of New York signed a compact with the Mohawk Tribe which did not include verbiage with regards to exclusivity; however, he added, an amendment to the compact made in 2004 was specifically geared towards providing the Tribe with an exclusive jurisdiction for Class 3 gaming rights for an eight county region which included Warren County. Mr. Auffredou said it was interesting to note that in entering into the compact, the State had exceeded the rights authorized by Federal Legislation for Indian Tribes and gaming rights. He explained that the Federal Legislation provided the Tribes with exclusive rights for gaming on Indian lands, reservations and lands that the Federal Government was holding in trust for Indian Tribes. Mr. Auffredou continued that although the properties identified in the Federal Legislation might cover a very expansive area, he did not believe Warren County to be located entirely in one of the areas classified. He noted that the State's 2004 amendment to the compact indicated that the State would provide the Tribe with exclusive rights to the eight counties "as provided by law, but as they would otherwise not be provided by law" which led one to believe that at the time the amendment was added there was some question as to whether there was the authority to do so, yet Warren County found itself included in the exclusive provision in the compact. In return for giving up the exclusive rights, Mr. Auffredou apprised that the State was to receive as much as 25% of the Tribes revenues from gaming rights, which could be as high as 25% of \$72 million. In conclusion, Mr. Auffredou summarized that the State had provided the Mohawk Tribe exclusivity over gaming rights for an eight county region, which included Warren County, although he believed that these actions were offered in language that was not within the authority of the Federal Legislation.

Mr. Monroe commented that to further confuse the matter, it was his understanding that the Mohawk Tribe had not been paying the State and Mr. Auffredou had heard this, as well. Mr. Monroe apprised that at the January Board meeting Robert Blais, Mayor of the Village of Lake George, had spoken on the need for studies concerning casino gambling in Warren County, and at the subsequent February Board meeting a Lake George resident had indicated there was no need for the studies as the majority of residents were not in favor of the idea. He noted that with respect to Mr. Auffredou's findings, it appeared that if Warren County desired to pursue the rights to introduce a casino gambling facility they would need to enter into litigation with the State based on the argument that the State did not have authority to offer such rights. Mr. Auffredou responded that Mr. Monroe's assessment was correct; he advised the compact included provisions for amendment but an amendment would require the agreement of both the State and the Tribe.

Mr. Monroe questioned whether the Committee desired to pursue this option further and Mrs. Wood responded that she was not interested in going any further at this point. Mr. Girard recalled discussions indicating that before moving any further on this issue, they were going to reach out to the Governor's Office to determine whether Warren County was even being considered as a viable area for casino placement. Mr. Auffredou advised it was his recollection that he was to report on the exclusivity issues included in the compact, following which steps were to be taken to determine Warren County's standings in the casino placement decision being made by the Governor. Joan Sady, Clerk of the Board, said she believed Mayor Blais was handling this facet of the research; she indicated that she had received a copy of the letter forwarded by Mayor Blais to Senator Little on this issue, but she was not aware of what the response had been. It was the consensus of the Committee that this issue should be tabled for discussion at a future meeting.

With respect to Pending Item #2, regarding the survey of areas where beaver dams have created problems, Mr. Monroe advised that this item should be tabled, as well, because more time was needed to discuss the issue with Mr. Auffredou. Mr. Girard commented that this was an important issue that was difficult to address because it dealt with private property. Mr. Girard asked whether there was a way to mitigate this problem and Mr. Auffredou replied that he was unsure, but could contact NYSAC, the Association of Towns and the State Comptroller's Office on the matter; he noted that he was not aware of any program currently in place to deal with issues of this nature which impacted private lands.

A brief discussion ensued, following which it was determined that the issue would be tabled for further discussion at a future meeting.

Mr. Monroe apprised that he had asked Mr. Auffredou to prepare a draft amendment to Warren County Local Law No. 9 of 2011, *A Local Law in Relation to Preventing the Spread of Aquatic Invasive Species in Warren County*, to address enforcement provisions which only named the Warren County Sheriff's Office as the enforcing authority. He said that as per discussions with Joe Martens, Commissioner of the New York State Department of Environmental Conservation (NYSDEC), it was his understanding that better enforcement measures could be provided by expanding the provisions of Local Law No. 9 of 2011 to include NYSDEC and the New York State Police as enforcing agencies, as the State did not currently have anything as comprehensive in place. Mr. Monroe advised Mr. Auffredou had researched this possibility and was prepared to report on the matter.

Mr. Auffredou stated that as the Lake George Park Commission (LGPC) continued its efforts to introduce a programmatic, comprehensive approach to invasive species eradication in Lake George, they were searching for immediate actions that could be taken to address the issue at a local level. One of the ideas identified, he said, was an amendment to Local Law No. 9 of 2011 to expand the enforcement provisions, as explained by Mr. Monroe. Mr. Auffredou stated there had been some discussion between Messrs. Monroe and Dickinson with respect to adding provisions to include the ability for the LGPC to enforce the Local Law, as well, at least within the parameters of the Lake George Park within Warren County. He apprised there were provisions within the Environmental Conservation Law (ECL) which allowed the LGPC to enter into cooperative agreements with local municipalities to enforce local laws of those municipalities that affected Lake George, and clearly, he said, Local Law No. 9 of 2011 fit this description. Mr. Auffredou stated that with the ever increasing costs of invasive species, which applied to the economy, property values, and to the environment, it was thought that if there was a way to turn some of the enforcement responsibility to the LGPC, who had expertise in this area, they would be taking another step to combat invasive species in Warren County. Additionally, Mr. Auffredou noted that if the LGPC was willing to accept a portion of the enforcement responsibility, they would be well suited to do so because they already maintained a presence in Lake George, at the boat launches and in various other parts of the Lake George Park. Since Local Law No. 9 of 2011 took a County-wide approach, he suggested that enforcement by NYSDEC and State Police Officers be incorporated, as well.

Mr. Auffredou distributed copies of the proposed amendment to Local Law No. 9 of 2011 which would expand the enforcing entities, as outline above; *a copy of the amendment is on file with the minutes.* He proceeded to read the amendment aloud for the Committee's review. Mr. Auffredou said he felt the Local Law amendment would be beneficial because it could be completed within a 60-day period, allowing it to be in place and effective for the Memorial Day holiday weekend, when the boating season traditionally started. He noted that they would need to make sure that the LGPC was in favor of the initiative and he said that if they desired a cooperative agreement with Warren County, he would be willing to draft it for them. In addition, Mr. Auffredou advised they would need to contact NYSDEC and the State Police to determine whether they were willing to enforce the Law on a County-wide basis in cooperation with the Warren County Sheriff's Office, which would provide a much more thorough means for enforcement. Mr. Monroe pointed out that in order to amend the current Local Law, a public hearing would be necessary, allowing sufficient time to discuss this issue with the LGPC, NYSDEC and State Police. He advised that he had discussed the enforcement initiative Robert Stegemann, NYSDEC Region 5 Director, who indicated that while NYSDEC Officers did not typically enforce local laws, this might be a special case. Mr. Auffredou said that he understood all of the agencies named had limited resources; however, he added, if the approach was going to be that invasive species in Warren County had a deleterious impact and effect on the environment and economy, and if this was truly a State-wide concern, they should be having serious dialogue with the NYSDEC and the State Police about enforcing these local laws as there were no better entities to work in connection with the Sheriff's Office to enforce them.

Motion was made by Mr. Girard and seconded by Mrs. Wood to amend Warren County Local Law No. 9 of 2011 to include the verbiage presented by Mr. Auffredou.

Mr. Dickinson commented that the point of the Local Law amendment was not to make arrests or harass boaters, but rather to strengthen the Lake Steward program and gain cooperation for the boat inspection and cleaning initiative. He then questioned whether discussions had been held with Essex and Washington County representatives in an effort to apply these laws to all areas surrounding Lake George, rather than just in Warren County. Mr. Auffredou replied that he had contacted these representatives and based on their conversations, he believed they were willing to meet and discuss the matter further; he added that he would set up these meetings, if Mr. Dickinson desired that he do so and Mr. Dickinson advised he would like to speak about this further at the close of the Committee meeting.

There being no further discussion on the matter, Mr. Monroe called the question and the aforementioned motion to amend Local Law No. 9 of 2011 was carried unanimously, thereby authorizing the necessary resolution for the March 15th Board meeting.

Resuming the agenda review with Pending Item #3, which pertained to a proposal that any additional land purchases made by New York State for forest preserve lands offer an exchange of property which was previously acquired and not used for forest preserve, Mr. Monroe advised that he had attended some good meetings with the New York State Environmental Secretary, NYSDEC and the Adirondack Park Agency (APA) to discuss a mechanism by which an exchange could be performed. He said they had reviewed past State land purchases which had included approximately 318,000 acres since 1972, as well as the building rights for another 700,000 acres through the purchase of conservation easements, constituting about 1 million acres of land. Mr. Monroe noted that if all of this property was classified under the most restricted property classification, they would have removed about 25,000 building rights, essentially using taxpayer money to buy building rights which were needed by communities for affordable housing or for use as incentives to build tourism infrastructures that would tie the Forest Preserves to their neighboring communities. Mr. Monroe recalled that at their prior meeting, the Committee had discussed this issue, and because it was noted that the initiative was gaining support from Governor Cuomo's administration, they had decided to refrain from taking a

position on the issue to see if State Legislation was going to be forthcoming; he said that unless someone from the Committee wanted to act on the issue, he assumed the matter would remain a pending item for future discussion, and the Committee was in agreement.

Mr. Monroe announced that Pending Item 4 pertained to a request for the County Attorney to meet with Dave Wick, Executive Director of the LGPC, to set up a regional meeting with Warren, Essex and Washington Counties, as well as all other involved agencies, to discuss the invasive species enforcement issues. Mr. Auffredou advised that, as previously indicated, he would speak with Mr. Dickinson later that day to schedule the meeting; he added that he would coordinate with Mr. Wick to be sure he could attend. Mr. Monroe said he felt it would be wise to include both the County Attorneys and the Chairmen of the Board for each County, as well.

Concluding the agenda review, Mr. Monroe addressed Pending Item #5, which referred to a proposed local law requiring mandatory boat inspections and cleaning prior to launch in all bodies of water in Warren County, and Mr. Auffredou's request that adoption of the local law be postponed, due to the complexity of the SEQRA (State Environmental Quality Review Act) required, until the results of the processes being undertaken by the NYSDEC and LGPC were complete. Mr. Auffredou explained that while the SEQRA process for Local Law No. 9 of 2011, regarding transportation, was not considered to have been complex or lengthy, he believed the opposite would be true for a local law seeking to require a boat inspection/cleaning program similar to the one the LGPC sought to impose. He further explained that the SEQRA associated with a boat inspection/cleaning law would be a long, expensive endeavor that would require the assistance of an outside consultant. Mr. Auffredou counseled that they could decide to move forward with the more arduous SEQRA process, or they could wait to see the outcome of the LGPC SEQRA process and proceed from that point.

Mr. Mason commented that based on the fact that they could not get a boat inspection/washing program in place before the upcoming boating season anyway, he would propose tabling this issue until June or July when the results of the LGPC SEQRA review were available. By proceeding in this manner, he said they would avoid the cost of a SEQRA review at the County level, but would still have time to take the necessary steps to get a program in place for the spring of 2014, if they desired to do so. Mr. Auffredou advised that although this idea presented an ambitious time frame, he did not believe it would be impossible to achieve.

Mr. Wick advised that the LGPC would take action in April to declare their draft studies complete, making it a public document that could be used to the benefit of Warren County. He said he did not see any reason for the same extensive research and studies they had already performed to be undertaken at the County level.

As the Committee was in agreement with Mr. Mason's suggestion, it was determined that the item would remain pending for further discussion once the LGPC findings were adopted and released.

Mr. Monroe noted that Mr. Mason had entered the meeting after discussion was held on the Governor's proposed pension option but wished to speak on the topic; he noted that the Committee had decided to table the issue for discussion at a future meeting when comments from the Chairman Geraghty and the County Administrator could be made.

Mr. Mason stated it was his understanding that the Governor's proposal included a plan to level pension contributions, but would not really make any fundamental changes to the system. He said that while those in favor of mandate relief might call this a gimmick, he disagreed and felt the proposal would revise the existing system in a manner that would make it easier for towns, cities, counties and schools to incorporate a flat figure for their pension contribution, rather than using a fluctuating amount. Mr. Mason advised that he had spoken to a number of people at the NYSAC Conference about this initiative

and could not find any problems with the proposal. He said he would recommend a resolution supporting the pension proposal based on his feeling that it would be helpful to many municipalities.

Mr. Monroe questioned whether the Committee desired to action on the issue in response to Mr. Mason's comments, but none were in favor.

There being no further business to come before the Committee, on motion made by Mrs. Wood and seconded by Mrs. Frasier, Mr. Monroe adjourned the meeting at 11:20 a.m.

Respectfully submitted,
Amanda Allen, Deputy Clerk of the Board