

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: LEGISLATIVE & RULES

DATE: MAY 31, 2018

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COMMITTEE MEMBERS PRESENT:

SUPERVISORS STROUGH  
LEGGETT  
WILD  
MCDEVITT  
GERAGHTY  
SOKOL  
DRISCOLL

OTHERS PRESENT:

RONALD F. CONOVER, CHAIRMAN OF THE BOARD  
RYAN MOORE, COUNTY ADMINISTRATOR  
MARY ELIZABETH KISSANE, COUNTY ATTORNEY  
AMANDA ALLEN, CLERK OF THE BOARD  
FRANK E. THOMAS, BUDGET OFFICER  
SUPERVISORS HOGAN  
LOEB  
SIMPSON

COMMITTEE MEMBERS ABSENT:

SUPERVISORS BRAYMER  
DIAMOND  
DICKINSON  
MAGOWAN

HERB LEVIN, DIRECTOR, WEIGHTS AND MEASURES  
DON LEHMAN, *THE POST STAR*  
CHRISTOPHER SOUTH, *SUN COMMUNITY NEWS*  
LESLIE LOVELACE, SECRETARY TO THE CLERK OF THE BOARD

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Please note, the following contains a summarization of the May 31, 2018 meeting of the Legislative & Rules Committee; the meeting in its entirety can be viewed on the Warren County website using the following link: <http://warrencountyny.gov/gov/comm/Archive/2018/legislative/>

Mr. Strough called the meeting of the Legislative & Rules Committee to order at 11:49 a.m.

Motion was made by Mr. Sokol, seconded by Mr. Geraghty and carried unanimously to approve the minutes of the previous Legislative & Rules Committee meeting, subject to correction by the Clerk of the Board.

Copies of the agenda packet were distributed to the Committee members and a copy of same is on file with the minutes.

Commencing the agenda review with the Action Agenda/New Business Item 1, privilege of the floor was extended to Mary Elizabeth Kissane, *County Attorney*, who explained Resolution No. 193 of 2018, *Introducing Proposed Local Law No. 3 of 2018 entitled "Municipal Opioid Cost Recovery and Public Nuisance Legislation" and authorizing a Public Hearing thereon*, was withdrawn at the April 20<sup>th</sup> Board meeting due to legitimate concerns raised by Mr. Loeb in regards to the language of the proposed law. She said she had reviewed the law and consulted with outside counsel, but requested another month for further review before bringing the matter back to the Committee. It was the consensus of the Committee to allow Mrs. Kissane more time to review the law and make revisions before it was brought back to the Committee for consideration.

Chairman Conover entered the meeting at 11:51 a.m.

Mr. Strough apprised Item 2 pertained to consideration of Adirondack Association for Towns and Villages (AATV) Resolution No. 4 of 2018, pertaining to exemption of the State-owned former Camp Gabriels Correctional Facility Property located in the Town of Brighton, Franklin County from the "Forever Wild" provision of the State of New York Constitution.

Privilege of the floor was extended to Mr. Simpson, who confirmed Camp Gabriels was formerly a State-owned correctional facility; he informed there had been a potential buyer, prompting subdivision of the property for the proposed sale of and approximately 92-acre section. He notified there was a complication with the sale because this State-owned property was located in the Adirondacks, resulting in the potential buyer being unable to obtain title insurance, and so the sale of the property fell

through. He explained the AATV was seeking support for a constitutional amendment to remove the "Forever Wild" designation in order for the property to be sold. Mr. Strough commented that the failed sale of the property had resulted in lost economic benefits to the northcountry and he opined that action aimed at furthering the sale would be in the best interest of the region. Mr. Wild inquired when the sale of the property had fallen through and Mr. Simpson responded this occurred last year.

A brief discussion ensued, following which a motion was made by Mr. Leggett, seconded by Mr. Wild and carried unanimously to approve a resolution supporting the exemption of the New York State-owned Camp Gabriels Correctional Facility Property from the "Forever Wild" provision of the Constitution of the State of New York and the necessary resolution was approved for the June 15<sup>th</sup> Board meeting.

Moving on, Mr. Strough apprised Item 3 referred to a request from the Director of Veterans' Services to authorize support of Senate Bill 8210, relating to the cost of maintenance and operation of local Veterans Services Agencies. In the absence of Denise DiResta, *Director, Veterans' Services*, privilege of the floor was extended to Ryan Moore, *County Administrator*, who spoke on her behalf, apprising Ms. DiResta indicated to him that she had distributed the Bill several weeks ago to the Committee members; he noted a copy of the Bill was included with the agenda for any of the members had not received it. He explained that as the current law read, in a County with a population under 100,000 the Veterans' Services Office could submit expenses for maintenance and operations to the State and in return would receive State Aid in an amount equal to fifty percent of those expenses up to a total of \$10,000. He said Ms. DiResta had advised in the past she had only submitted for the first two quarters of each year, as the amounts for those first two quarters typically exceeded the \$10,000 cap. Mr. Moore advised Veterans' Services only received \$8,529 because the State appropriation was low due to the language on how the money could be expended and appropriated according to legislation. He informed the proposed Bill would change the current legislation to counties to receive up to \$20,000 in State aid.

Motion was made by Mr. McDevitt, seconded by Mr. Geraghty and carried unanimously to approve the request and the necessary resolution was authorized for the June 15<sup>th</sup> Board meeting.

Moving on to the Referral/Pending Items section of the agenda, Mr. Strough directed the Committee to Item 2, concerning a referral from the Environmental Concerns & Real Property Tax Services Committee relating to proposed legislation regarding the banning of plastic shopping bags in Warren County. He noted that the proposed legislation included in the agenda packet was drafted by Supervisor Braymer who was unable to attend today's meeting. Mr. Strough apprised there was a thorough and comprehensive article in National Geographic magazine which spoke about the damage that plastics were causing to the environment. He then distributed copies of Governor Cuomo's proposed legislation aimed at amending the New York State environmental conservation law in relation to prohibiting plastic carryout bags throughout the State; *a copy of the Governor's proposed legislation is on file with the meeting minutes*. Mr. Strough pointed out that Ms. Braymer's proposal would only have an impact Warren County, and in light of resistance from the Board on past legislation of this nature, he voiced his concern that this current version may reach a similar outcome; he mentioned that supporting the Governor's State-wide legislation might be the better route.

Mr. McDevitt commented he was supportive of Ms. Braymer's proposal and would like to see the residents of Warren County take action on the matter. Mr. Wild requested clarification of the risks in regards to taking action on a County level versus taking no action and instead waiting for the State to enact a law. Mr. Moore replied he and Mrs. Kissane were asked to do an evaluation based on the original draft, which they had questions about, as well as what businesses it would apply to, i.e. pharmacies with grocery sections, farm stands and large chains that sold goods besides groceries, such as Walmart. He apprised that upon meeting with Ms. Braymer, she explained her vision had been to include all of the aforementioned types of businesses in the ban. With respect to concerns with enforcement of the ban, Mr. Moore advised he had held discussions with Herb Levin, *Director, Weights & Measures*, who possessed the instrument used to measure the thickness of the plastic bags and routinely visited the

types of stores that would be covered in the ban to perform his department's typical inspection duties; he added that based on these discussions, they determined it would be reasonable for Mr. Levin to assume the inspection and enforcement duties associated with the proposed legislation through his normal duties. He expounded that in the event of a violation, Mr. Levin would issue a notice of violation and allow the store two weeks to change their practice of bag use. He continued, there was a concern as to how further violations would be addressed and Mr. Moore said it was possible for Mr. Levin to return to the store after the two week period to determine whether the violation continued, and at that time a fine of \$500 could be imposed; however, he stated, if the store did not pay the fine, it would be the responsibility of the County Attorney to take the store to small claims court to collect the fine. He commented that this posed the question of whether such collection pursuance would be good use of the County Attorney's time. Mr. Geraghty apprised he was in support of Ms. Braymer's efforts, but was concerned with possible legal repercussions for the County as a result of the law not being applicable to all retail locations, resulting in certain businesses being singled out.

Privilege of the floor was extended to Mr. Levin who cited his concerns regarding Ms. Braymer's proposed legislation. He asked that the wording be changed from Director of Weights and Measures being the enforcement officer to say "Warren County shall appoint an enforcement officer". He apprised he would gladly be the enforcement officer, but felt the wording should be left open so that if for some reason he was unable to carry out the enforcement, an alternate individual could be appointed to do so. He also pointed out that stores without scales regulated by Weights & Measures had alternate devices they used to measure with; therefore, he stated, the language including just those with scales would not include all covered stores. He pointed out the language identifying "food service establishments" as exempt did not clarify whether this pertained to delis or markets, and he pointed out that both Target and the two Walmarts would be covered under this exemption unless the language was clarified. Mr. Levin noted he did not see any provisions in the proposed local law to include gas stations selling food, such as the Exxon Mobil store located in Lake George or the Jolly store located on Upper Glen Street in Queensbury; he pointed out both stores had scales which he regulated. He also noted candy stores were not included as exempt, but had scales for selling bulk candy - as an example he cited that The Silo sold food items and had a scale to measure fudge. He proceeded to give examples of stores that were not mentioned or included in the language of Ms. Braymer's proposed local law, and he noted that consumers also needed to be considered when adopting this legislation. Mr. Levin stated he was not opposed to the plastic bag ban, but believed the Governor's bill was more comprehensive since it covered all of the points in question. Finally, Mr. Levin pointed out his department's logo read, "Equity for all in the market place" and he requested that this be taken into consideration when reviewing the proposed local law as it would not seek to implement the same restrictions for all businesses. Mr. Driscoll mentioned the purchase of re-usable bags could present a hardship for low and fixed income families in the community if either Ms. Braymer's local law or the Governor's bill was passed.

Returning to the Governor's proposal, Mr. Strough he highlighted what the legislation would and would not include. He opined there were concerns raised by the County Attorney and County Administrator in regards to Ms. Braymer's draft and he inquired if the Committee felt inclined to bring Ms. Braymer's proposal to the floor. After a lengthy discussion Mr. Strough indicated foresaw three options the Committee could choose to proceed with: authorize a resolution of support for the Governor's proposal; approve a resolution to introduce the local law suggested by Ms. Braymer; or request revision of Ms. Braymer's proposed local law to address the concerns raised for review at a future meeting.

Chairman Conover remarked he was in favor of supporting the Governor's proposal as he had concerns with the County stepping out first on this issue without having fully vetted all aspects of the law proposed by Ms. Braymer. Mr. Loeb said he supported Chairman Conover's statement, noting his concern was the burden the law would create for businesses and the community. He said he supported the concept and had approached the upper management of Hannaford and Price Chopper to inquire how it would impact them; however, he noted, they were more concerned with trying to block the law. He apprised he then spoke to a Hannaford Supervisor online who had day to day experience with the

customers and they indicated to him they would adapt to it within days and did not foresee a plastic bag ban negatively impacting business.

Mrs. Hogan reported the typical American household took home an average of 60 plastic bags a month, using them for 12 minutes each, and she advised less than 3% of these bags would be recycled. She pointed out that the environment was Warren County's "bread and butter" and while she agreed with supporting the Governor's proposal, she questioned why Warren County would not be willing to take the lead in bringing forth their own legislation on this matter. Mr. McDevitt concurred with Mrs. Hogan, adding that biodegradable bags were cost prohibitive, but he had come to realize that not everyone would be happy with or without a law to ban plastic bags. Mr. Wild asked if Mr. Levin would be open to helping revise Ms. Braymer's proposal and Mr. Levin replied affirmatively.

Motion was made by Mr. Leggett, seconded by Mr. McDevitt and carried unanimously to authorize a resolution in support of Governor Cuomo's proposal to amend the environmental conservation law in relation to prohibiting plastic carry out bags to be presented at the June 15<sup>th</sup> Board meeting.

It was the consensus of the Committee to have Ms. Braymer make revisions to her proposed legislation for review at a future Committee meeting; Mr. Leggett volunteered to help Ms. Braymer with the revisions.

Returning to Referral/Pending Item 1, Mr. Strough noted the agenda included changes to the County's current FOIL (*Freedom of Information Law*) policy, as proposed by Ms. Braymer. Mrs. Kissane explained that currently, all of the FOIL requests were received through the County website by the County Administrator's Confidential Secretary who disseminated them to the correct department. She said her understanding of the proposed revisions would also require the County Administrator to be responsible for obtaining the requested documents from each Department Head, then certifying and delivering them. Chairman Conover noted serious consideration needed to be given to this matter in light of the many departments retrieving the information. He added that removing this responsibility from the Department Head's and delegating it to the County Administrator's Office may result in the need for increased staffing for the County Administrator's Office at an additional cost to the County which was an undesired consequence. Mr. Thomas suggested the Clerk of the Board may be best suited to assist in the process of collecting the documents as that Office served as a central record keeper for a considerable amount of information.

Mr. Wild exited the meeting at 12:36 p.m.

The Committee refrained from taking action on the proposed changes to the County's FOIL law in favor of holding more discussion on the matter when Ms. Braymer was in attendance to speak to her proposal.

As there was no further business to come before the Committee, on motion made by Mr. Sokol and seconded by Mr. Driscoll, Mr. Strough adjourned the meeting at 12:38 p.m.

Respectfully submitted,  
Leslie Lovelace, Secretary to the Clerk of the Board