

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: LEGISLATIVE & RULES

DATE: JULY 24, 2018

COMMITTEE MEMBERS PRESENT:

SUPERVISORS: STROUGH
LEGGETT
BRAYMER
WILD
MCDEVITT
DIAMOND
GERAGHTY
MAGOWAN
DRISCOLL

OTHERS PRESENT:

RONALD F. CONOVER, CHAIRMAN OF THE BOARD
MARY ELIZABETH KISSANE, COUNTY ATTORNEY
AMANDA ALLEN, CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER
RYAN MOORE, COUNTY ADMINISTRATOR
SUPERVISORS FRASIER
MERLINO
SIMPSON
CATHERINE ATHERDEN, TOWN OF QUEENSBURY RESIDENT
LISA ANDERSON, TOWN OF QUEENSBURY RESIDENT
DIANE COLLINS, WARREN COUNTY RESIDENT
FRANK CAPPABLANCA, WARREN COUNTY RESIDENT
TIMOTHY MORIARTY, WARREN COUNTY RESIDENT
DON LEHMAN, *THE POST STAR*
MOLLY GANOTES-GLEASON, LEGISLATIVE OFFICE SPECIALIST

COMMITTEE MEMBERS ABSENT:

SUPERVISORS: DICKINSON
SOKOL

Please note, the following contains a summarization of the July 24, 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://www.warrencountyny.gov/gov/comm/Archive/2018/legislative/>

Mr. Strough called the meeting of the Legislative & Rules Committee to order at 9:31 a.m.

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

Commencing the agenda review, Mr. Strough indicated Action Agenda/New Business Item 1 pertained to consideration of Adirondack Park Local Government Review Board (APLGRB) Resolution No. 3 of 2018 "In Support of the High Peaks Wilderness Complex and Vanderwhacker Mountain Wild Forest Unit Management Plan Amendments". Mr. Geraghty explained the purpose of the resolution was to grant public access to those areas so individuals would be able to enjoy their natural beauty. He indicated this was fully supported by the APLGRB and they were following the lead of the five towns that would be deeply impacted; he asked the Committee for their support on this issue. Ms. Braymer indicated the Adirondack Park Agency (APA) had acted on this matter at their meeting last week. Mr. Geraghty maintained his request for a resolution of support.

Motion was made by Mr. Geraghty, seconded by Mr. Driscoll and carried unanimously to authorize a resolution in support of the High Peaks Wilderness Complex and Vanderwhacker Mountain Wild Forest Unit Management Plan Amendments and the necessary resolution was authorized for the August 17, 2018 Board meeting.

Moving on to the Referrals/Pending Items section of the agenda, Mr. Strough called for discussion regarding proposed changes to the County's Freedom of Information Law (FOIL) policy. Ms. Braymer advised she had submitted her suggested changes to Ryan Moore, *County Administrator*, but said she was not prepared to discuss them today; Mr. Moore advised he wanted to meet with Ms. Braymer and the County Attorney to discuss the matter further. Mr. McDevitt inquired if there was a problem with the current policy and Ms. Braymer answered the issue

was that a FOIL request could be received by any Department Head and she felt there should be a uniform process and a designated FOIL Officer to ensure these requests were answered. She said it was her understanding that currently many requests were sent to the County Administrator's Office and then distributed to the proper department, but this was not required. She opined that streamlining and defining the process would protect the County's best interests and to make it easier for the public to submit requests. Mr. Geraghty mentioned he was not aware of any problems with the way FOIL requests were handled. Mr. Moore acknowledged the suggested changes would make extra work for his Office, but said he was not opposed. With regard to an inquiry from Mr. Wild about the costs of FOIL requests, Mr. Moore advised a charge of \$.25 per page was assessed for each printed page, and if there was a significant amount of time spent on collecting information or through the redaction process, the County could charge for staff time spent working on the request based on the lowest hourly rate of the staff gathering the information. Mary Elizabeth Kissane, *County Attorney*, explained the majority of FOIL requests were received by the County Administrators Office and dispersed to the Department Head that could provide the best answer; she noted that in some instances, the FOIL request specified a certain department; she added that FOIL appeals were directed to her Office for determination on behalf of the Chairman of the Board. She informed her Office recently began charging for time spent redacting information when that process exceeded two hours of staff time because of the numerous FOIL requests they were dealing with. Mr. Wild inquired if a public hearing was required in order to modify the County's FOIL policy and Ms. Kissane replied affirmatively. Mr. Strough notified it was consensus of the Committee for Mr. Moore, Ms. Kissane and Ms. Braymer to meet and work out the details of the suggested changes for presentation at the next Committee meeting.

Mr. Strough stated Referral/Pending Item 2 pertained to proposed Resolution No. 193 of 2018, *Introducing Proposed Local Law No. 3 of 2018 entitled "Municipal Opioid Cost Recovery and Public Nuisance Legislation"*, which was withdrawn at the April 20, 2018 Board Meeting and referred back to Committee for revision. Ms. Kissane distributed copies of a revised version of proposed Local Law No. 3 of 2018, *a copy of which is on file with the meeting minutes*. She explained the previous resolution had been withdrawn due to Mr. Loeb's concerns regarding legitimate doctor-prescribed narcotics for pain being at odds with the law as it was proposed. She further explained that the law, as it was originally proposed, also stated the County could hold these prescribers civilly or criminally responsible but, Mr. Loeb wanted to limit the language to actions that caused opioid addiction. She said her interpretation was that the issue related to the term "responsible party" and so she had amended Section 2 of the Law where this term was defined; she noted she had also included the definition of "wrongful conduct". Ms. Braymer inquired about the status of the opioid litigation against drug companies which the County was involved in and Ms. Kissane replied they were at the point of discovery; she added the trial was taking place in Suffolk County.

Motion was made by Ms. Braymer, seconded by Mr. Wild and carried unanimously to approve proposed Local Law No. 3 of 2018, regarding Municipal Opioid Cost Recovery and Public Nuisance Legislation, and setting public hearing thereon and the necessary resolution was authorized for the August 17, 2018 Board meeting.

Mr. Strough informed the final Referral/Pending Item pertained to the proposal put forth by Ms. Braymer to ban single use plastic bags in Warren County. Ms. Braymer stated the purpose of this local law was to change an individuals behavior and encourage them to start using re-usable bags. She indicated the law would not apply to just grocery stores, but rather all stores. She noted the Board of Supervisors had previously approved a resolution of support for Governor Cuomo's bill to ban single-use bags in retail stores across the State. She reviewed the list of plastic bags that would be exempt from the law and she discussed appointing the Weights & Measures Department to provide enforcement and ensure that retailers were abiding by the law because that Department was already out in the community visiting these stores to verify accuracy of their measuring systems. Mr. Wild suggested keeping the law simple because the more complex it became the more likely they were to encounter unintended consequences.

Motion was made by Mr. Wild and seconded by Ms. Braymer to introduce a local law promoting the use of reusable bags by banning single-use plastic bags in Warren County.

Mr. Magowan voiced his concern that the proposed legislation would hurt local businesses, such as hardware stores that used small plastic bags for bulk items, and Ms. Braymer indicated the ban was successful in Vermont, as well as on the west coast. A discussion ensued.

Mr. Strough acknowledged there were members of the public in attendance who wished to speak before the Committee voted on the aforementioned motion.

Catherine Atherden, *Town of Queensbury Resident and a member of the Tri-County New York Transition*, apprised she first brought the ordinance to the attention of the City of Glens Falls and the Town of Queensbury with little response, following which she presented it to this Committee in 2017. She mentioned she was encouraged by the remarks she heard during the meeting, and she noted Price Chopper and Hannaford were giving back \$.05 for each reusable bag used at checkout and Aldi and Price Rite charged for their bags. She advised there was a lot of activity around promoting the use of reusable bags in the area.

Diane Collins, *Warren County Resident*, expressed she had made the behavior change and brought her re-usable bags every time she shopped. She informed the statistic regarding plastic bags showed 500 bags per person per year ended up in a landfill which equaled 10 bags per person each week. She implored the Committee to consider the waste of natural resources and the harm to the environment this use caused.

Frank Cappablanca, *Warren County Resident*, stated he fully support the proposed ban, indicating communities in Massachusetts had already banned the use of plastic bags. He added because of the County's reliance on tourism, the Committee should not wait for the State, but should be proactive and keep the area pristine. He indicated for those who saw using a re-usable bags as a hardship, there were an abundance of re-usable promotional bags available from various sources.

Lisa Anderson, *Town of Queensbury Resident*, indicated she was in favor of the potential legislation, and after speaking with upper retail management, felt the public was ready for the change.

Mr. Geraghty reminded the Committee that the Board had become the stewards of the environment when they were the first to take the lead regarding invasive species efforts in Lake George before the State began cleaning other lakes.

Timothy Moriarty, *Warren County Resident*, remarked he did not like being a contrarian, but questioned what the next ban would be after plastic bags. He acknowledged littering was a problem, but pointed out that those who littered plastic bags littered other things, as well. He viewed the administration of the law as a problem, referring to the cost involved, the need for an inspector/enforcer and problems with confusing tourists. He concluded he believed banning plastic bags in Warren County was a mistake.

A brief discussion ensued regarding possible changes to the proposed local law to address issues certain issues with the language, following which amendments were made to change the Part II Definition for Item 3 under Single-use Carry out Bag to read "*Plastic bags used by a customer solely to package bulk items, such as fruits, vegetables, nuts, grains, candy, baked goods, and other non-prepackaged items*", as well as to indicate that the law would become effective January 1, 2019 with enforcement to commence June 1, 2019.

Mr. Wild amended his motion and Ms. Braymer amended her second, to include the aforementioned amendments; Mr. Strough called the question and the motion was carried unanimously, thereby authorizing the necessary resolution for the August 17, 2018 Board meeting.

As there was no further business to come before the Legislative & Rules Committee, on motion made by Mr. Driscoll and seconded by Mr. Wild, Mr. Strough adjourned the meeting at 10:24 a.m.

Respectfully submitted,
Molly Ganotes-Gleason, Legislative Office Specialist