

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: **LEGISLATIVE**

DATE: May 3, 2006

Committee Members Present:	William Thomas, Chairman
Supervisors F. Thomas	Joan Parsons, Commissioner of Administrative & Fiscal Services
Belden	Joan Sady, Clerk
Gabriels	Paul Dusek, County Attorney
Monroe	Carlene A. Ramsey, Sr. Legislative Office Specialist
Stec	
Merlino	
Girard	

Absent: Merlino

Mr. F. Thomas called the meeting to order at 11:42 a.m.

Motion was made by Mr. Belden, seconded by Mr. Stec and carried unanimously to accept the minutes of the previous meeting, subject to correction by the Clerk.

Mr. F. Thomas referred to the Agenda packet, previously mailed to each of the Committee members. He began with Agenda Item 1, Request for support of Assembly Bill #9807 which would require the Public Service Commission to suspend its ongoing de-regulatory proceedings.

Ms. Sady entered the meeting at 11:44 a.m.

Mr. F. Thomas explained he had researched the current status of the bill and he noted it had passed in the Assembly on April 11, 2006 with 129 in favor, and 14 opposed. He pointed out that Assemblywoman Sayward had voted in favor of the Bill.

Motion was made by Mr. Stec, seconded by Mr. Belden and carried unanimously to support Assembly Bill #9807 which would require the Public Service Commission to suspend its ongoing de-regulatory proceedings; and to authorize a resolution be prepared for the May 12th Board meeting.

As for Agenda Item 2) New legislative bill regarding amendments to the APA, Mr. F. Thomas pointed out that Mr. Monroe had prepared a summary of the bill, included with the Agenda packets.

Mr. Bentley entered the meeting at 11:48 a.m.

Privilege of the floor was turned over to Mr. Monroe, as President of the Adirondack Park Local Government Review Board (APLGRB) and he explained the Adirondack Park Agency (APA) had not amended its regulations for a number of years. He said the APA

had proposed several different amendments, which he had illustrated in the handout with Sections 1-9.

Mr. Monroe briefly explained each Section, as follows:

Section 1, Local Jurisdiction over Industrial Sites: Both the APLGRB and the APA had been working to amend the Executive Law, Section 807 for a number of years. He noted the LGRB would like to see the law expanded to "commercial" sites, since the term "industrial" was very tightly defined. The APA's proposed amendment would at least change the jurisdiction to include a "hamlet" classification which would allow the local municipality to include commercial uses. However, he noted that any structure over 40 feet in height would automatically re-activate the APA's jurisdiction over that particular site.

Section 2, Class A status: currently, the Agency can have agreements with local governments to make certain projects Class A status, either before or at the time of approval, yet NOT after the project had been approved. The amendment was intended to provide local governments more flexibility with developing projects.

Section 3, Lots vs. contiguous acreage: the current APA's jurisdiction over land uses would be converted from the number of lots a person owns, to the total number of acres, regardless of how it was subdivided. Page 3 contained a table of the APA subdivision thresholds and Page 4 showed the proposed thresholds.

Section 4, Amnesty: in the event a landowner was currently in violation of existing subdivision thresholds, he/she would be granted amnesty for past violations. He said the proposal would be bad for landowners of 50+ acres who had never violated the regulations. Although the change would help some individuals, it would actually provide the APA jurisdiction over previously exempt projects.

Mr. Monroe stated the LGRB was not in favor of Section 3 yet acknowledged that Section 4 would be important if Section 3 was adopted. However, he clarified that the amnesty was not necessarily tied to Section 3, since the violations were on subdivisions of lots that were still large enough not to have a negative impact on the environment.

Section 5, Minimum Shoreline Lot Sizes: the proposal would remove the local municipality's jurisdiction to determine the minimum sizes of shoreline lots, and increase the size to the minimum for non-shoreline lots. The intent, he noted, was to increase the zones where not more than 30% of the trees over 6 inches in diameter could be cut within a 10 year period. The change would expand the zone from 35 feet to 100 feet of the shoreline.

The second part of the amendment, he said, would limit tree removal within the zone of 6 feet from the shoreline, to an expanded zone of 15 feet from the shoreline, as applied to each 100 feet of shoreline. In other words, he said, if someone owned

1,000 feet of shoreline, they can currently cut 300 feet of that 1,000 feet; then subdivide the 1,000 into 10 - 100 foot lots; each 100 foot lot owner could then cut another 30 feet.

Mr. Monroe reported the large land owners, such as Finch, Pruyn, Inc. and the Whitfield Estate (with 30,000 acres) were opposed to the amendment. He said these groups already have timber management plans that would be adversely impacted by the change from 6 to 15 feet.

Mr. Dusek left the meeting at 11:56 a.m.

Mr. Monroe noted the LGRB felt it could only support this amendment if it excepted the large ownerships, with a timber management program.

Section 7, Shoreline Access Lots: pertained to back lots granted rights to common beach areas. He referred to the chart on page 7 which outlined the proposed changes. Again, he noted the Review Board felt the restrictions should be left up to the local governments to decide.

Section 8, Public Hearing Before Denial: would change the requirement for a hearing to be held within the current 60 days (45 days for a small project) of the Notice of Completion of Application, to 120 days.

Section 9, Elimination of Civil Penalties for Good Faith Purchases: would protect the new purchaser who demonstrated good faith and due diligence, only to be slapped with civil penalties for a violation discovered, from 3-4 owners back in the chain of title.

In conclusion, Mr. Monroe stated the APA had requested comments on each of the proposed amendments.

Mr. Stec said he understood Mr. Monroe had recommended the County support Sections 1, 2, 4, 8, and 9.

As for the other Sections, Mr. Stec further noted Mr. Monroe had recommended the County oppose Section 3, since it could have a negative impact on some of the County residents; Sections 5 & 7, since the Towns can handle these functions on their own; and Section 6, until it excludes large land owners who already use a timber management program.

Motion was made by Mr. Monroe, seconded by Mr. Belden and carried unanimously to authorize a resolution in support of the APA Departmental Bill #191 Provisions with regards to Sections: 1, 2, 4, 8, 9 of proposed amendments; and to state Warren County's opposition to Section 6 **until** it includes an exception for owners of large tracts of land who utilize timber management programs. The Committee authorized a resolution be prepared for the May 12th Board meeting and a copy of the Bill

summary is on file with the minutes.

Mr. F. Thomas resumed Agenda review at Item 3, New York State Association of Counties' request for letters of opposition regarding the State Police' new policy prohibiting the arresting State Troopers from performing prosecutorial responsibilities in local justice courts relating to traffic infractions.

Mr. Monroe commented his review of the attached letter seemed to indicate the State Police would not be handling prosecutorial responsibilities related to traffic violations, as they had in the past.

Mr. Gabriels stated he had discussed the matter with District Attorney, Kate Hogan, and learned the Assistant DA's routinely attended the Court dates in the Town of Bolton. He said he did not think the County would notice much of an impact.

Mr. Monroe said he felt the impact on the County would depend on who was in office, as the DA, as time went on.

Motion was made by Mr. Gabriels, seconded by Mr. Stec and carried unanimously to support New York State Association of Counties' request for letters of opposition regarding the State Police's new policy prohibiting the arresting State Troopers from performing prosecutorial responsibilities in local justice courts relating to traffic infractions.

Turning to Agenda Item 4, Hamilton County's Resolution No. 78 of 2006 Opposing Year-Round Bass Fishing in Region 5, Mr. Thomas deferred to Mr. Dusek for comment.

Mr. Dusek commented that he was an avid bass fisherman and noted the bass season was opened the 3rd Saturday in June through November. He pointed out the Department of Environmental Conservation (DEC) did allow year round bass fishing in certain areas of the State, where the waters warm up earlier in the year. He said it was his understanding that the mating season for bass was dependent upon the temperatures of the water, and in northern New York, the season was generally later in the Spring. He further stated the limited season was intended to ensure the adult fish were not caught before the breeding season.

Mr. Dusek also noted the argument in favor of year round bass fishing was presented by the bass organization which sponsors fishing events, tournaments and therefore tourism.

Ms. Sady left the meeting at 12:15 p.m.

Mr. Gabriels pointed out DEC imposed time limits for deer hunting, and other game hunting. Mr. Monroe observed that Hamilton County had a very poor economy, yet was opposed to the year round proposal.

Motion was made by Mr. Belden, seconded by Mr. Stec and carried unanimously to support Hamilton County's Resolution No. 78 of 2006, Opposing Year-Round Bass Fishing in Region 5.

Returning to Agenda review at Item 5, Mr. F. Thomas pointed out Putnam County had sent its Resolution No. 66 of 2006, which urged New York State to overhaul its education system to better control costs, relieve the burden on residential homeowners and find an alternative revenue source.

Mr. Stec stated he liked the fact that Putnam County's resolution had not specified a particular revenue source. He noted that Assemblywoman Sayward was working on a Bill with specific recommendations for alternative funding sources.

Motion was made by Mr. Stec, seconded by Mr. Belden and carried unanimously to support Putnam County's Resolution No. 66 of 2006 urging New York State to overhaul its education system to better control costs, relieve the burden on residential homeowners and find an alternative revenue source. The Committee authorized a resolution be prepared for the May 12th Board meeting and a copy of Putnam County's Resolution No. 66 is on file with the minutes.

Next, Mr. F. Thomas reported Agenda Item 6 was related to Fulton County's Resolution No. 147 of 2006, urging prohibition of NYS Department of Environmental Conservation's use of eminent domain and inclusion of a local veto provision in any final Open Space Land Acquisition Plan.

Mr. Gabriels stated this issue was discussed at the Region 5 Open Space Committee where it was pointed out the DEC has had a policy since the late 1980's. He noted the DEC would refrain from using Eminent Domain as a mechanism to obtain open space, and only entertained land transactions with willing sellers. He said he felt Fulton County's resolution was intended to clarify the policy, keeping it nice and simple.

Ms. Sady re-entered the meeting at 12:21 p.m.

Motion was made by Mr. Gabriels, seconded by Mr. Stec and carried unanimously to support Fulton County's Resolution No. 147 of 2006, urging prohibition of NYS Department of Environmental Conservation's use of eminent domain and inclusion of a local veto provision in any final Open Space Land Acquisition Plan. The Committee authorized a resolution be prepared for the May 12th Board meeting and a copy of Fulton County's Resolution No. 147 of 2006 is on file with the minutes.

Mr. Monroe provided a brief history as he explained, in the early 1990's there was a Governor's Commission on the Adirondacks in the 21st Century appointed. He stated the environmentalists were in favor of the eminent domain authority, and fought hard to have it included. He wondered if Fulton County was now trying to eliminate the eminent domain.

Mr. Gabriels clarified that Frank Clark of the Adirondack Park Landowners Association was working with DEC to simplify the language. For some reason, he noted, the DEC was struggling with simplifying the language to reflect the policy the DEC has followed for the past 15 years.

Mr. Monroe said he understood four towns in St. Lawrence County had recently exercised the local veto power to force DEC to the bargaining table. The move, however, upset the environmentalists who wanted to eliminate the local governments' veto powers.

Turning to Agenda Item 7, Referral from the Town of Bolton regarding the Saratoga Thoroughbred Meet, privilege of the floor was extended to Mr. Gabriels.

Mr. Gabriels, as Supervisor for the Town of Bolton, explained the New York State Horse Racing Association was now being closely reviewed by the State Legislature. He said he felt the future of horse racing in New York State could be seriously affected. Specifically, he said the Legislature may decide to eliminate Saratoga's exclusivity on thoroughbred racing during the month of August for flat tracks. If that happened, he expressed his concern that such a move would have a huge impact on Saratoga County and Warren County, as well. He urged the Committee to send a resolution to the full Board stating Warren County's support for keeping the August racing season in Saratoga as it is.

Motion was made by Mr. Gabriels, seconded by Mr. Belden and carried unanimously to authorize a resolution to urge the New York State Legislature (in its review of the New York Racing Association) to maintain the Saratoga Flat Track's exclusivity on thoroughbred horse racing during the month of August Meet. The Committee authorized a resolution for the May 12th Board meeting.

Mr. F. Thomas explained Agenda Item 8 had been referred by the Planning and Community Development Committee regarding the authority to administer and manage State grant funds awarded to the (County) LDC (Local Development Corporation.)

Motion was made by Mr. Gabriels and seconded by Mr. Stec to propose a bill to the State Legislature to request clarification of the law that determines whether or not the County (Planning & Community Development Department) has the authority to administer and manage State grant funds awarded to the (County) LDC (Local Development Corporation.)

Mr. Monroe commented he had attended the Planning Committee meeting and he understood the request was for a Legislative Bill to allow or authorize Warren County's Planning and Community Development Department to administer the State Grant funds.

Messrs. Gabriels and Stec agreed to amend their motion to more accurately state the

request: to request a Legislature Bill which would clarify current laws *as well as authorize* Warren County's Planning & Community Development Department) the authority to administer and manage State grant funds awarded to the (County) LDC (Local Development Corporation.)

Mr. Dusek pointed out, for a number of years, the County had been receiving federal grants, covered by a specific State law that allowed the County to participate in federal programs. However, the past couple of grants the County applied for were actually State grants and were only deliverable to not-for-profit corporations since they funded programs that government was typically not allowed to do. He clarified it was the type of grant that had been applied for and subsequently awarded which has created the situation.

Mr. Dusek said he felt the County would need to request permission for the County to administer a grant awarded to a certain not-for-profit corporation. He noted the typical LDC was intended by State Law to be a complete and separate not-for-profit corporation, free of ties to a municipality. He surmised the Legislature may decide to allow the County to administer funds for not-for-profits, in general. From there, he said, the County would probably be allowed to determine which not-for-profits it would agree to administer.

Following a brief discussion, Mr. Dusek said he felt the County would be more successful in requesting administrative dollars as opposed to more in-depth functions of the LDC. He noted the Legislature was very concerned with counties involvement with private business functions.

Mr. F. Thomas called the question and the motion was carried unanimously to request a legislative amendment which would allow Warren County to administer and manage State grant funds and manage funds awarded to not-for-profit corporations (such as the Local Development Corporation); similar to the administration allowed under Federal regulations. The Committee authorized a resolution be prepared for the May 12th Board meeting.

Mr. F. Thomas noted Agenda Item 9 concerned the Occupancy Tax Legislation. He noted the Parks, Recreation and Railroad Committee had referred a request for an amendment to the Occupancy Tax Legislation which would include projects such as snowmobile trail maintenance and to remove the sunset clause.

Mr. Stec confirmed the Parks, Recreation and Railroad Committee had request had originated from the snowmobile trail maintenance issue. However, he noted the discussion had expand the uses to "

Following extensive discussion, it was the consensus of the committee the request would need to specify "purchase, construction and maintenance of tourism related capital projects."

Motion was made by Mr. Belden and seconded by Mr. Stec to request the Occupancy Tax Legislation to be amended to include the purchase, construction and maintenance of tourism related capital projects.

Mr. Dusek apprised that the Legislature had already reacted to Warren County's request to 1) amend the Occupancy Tax Law and remove the sunset clause, and 2) approve the public authority request. He noted he personally, had long been a supporter of the amendment to expand the fund's usage for tourism related capital projects. However, he pointed out that Senator Little was of the opinion the current law already allows tourism related capital projects and was therefore reluctant to pursue further action with that regard.

In addition, Mr. Dusek explained the Attorney General has declined to become involved in the County's request for clarification of the Occupancy Tax Law's language. He noted the State Comptroller's Office has offered its assistance (through phone conversations) as Mr. Dusek tried to figure out the Legislature's intent. Even then, he said, the Comptroller's Office would not take an official position on the question.

Mr. Stec said he felt it was time for Warren County to take another official position on the question. He commented he felt the County Attorney had been very patient with the State Legislature.

Mr. F. Thomas called the question and motion was carried unanimously to request the Occupancy Tax Legislation be amended to include the purchase, construction and maintenance of tourism related capital projects; and to authorize a resolution be prepared for the May 12th Board meeting.

As one item of new business, Mr. Belden expressed his concerns with regards to the construction of cell towers within the Adirondack Park. He reminded the Committee members of the lack of cell phone coverage in a lot of the small towns in northern Warren County. He said he felt it had become more of a safety issue, and not just one of convenience. He suggested the APA may take notice if counties stated their support, rather than just the individual towns.

Motion was made by Mr. Belden, seconded by Mr. Gabriels and carried unanimously to authorize a resolution to declare Warren County's support of Warren County municipalities who choose to construct cell towers within the boundaries of the Adirondack Park.

There being no further business, on motion by Mr. Gabriels and seconded by Mr. Stec, Mr. F. Thomas adjourned the meeting at 12:45 p.m.

Respectfully submitted,
Carlene A. Ramsey, Sr. Legislative Office Specialist