

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: LEGISLATIVE & RULES

DATE: OCTOBER 5, 2015

COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:

SUPERVISORS MONROE
GIRARD
SOKOL
WOOD
FRASIER
WESTCOTT
STROUGH

KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ADMINISTRATOR
MARTIN AUFFREDOU, COUNTY ATTORNEY
AMANDA ALLEN, CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER
SUPERVISORS CONOVER
SIMPSON
TAYLOR
DON LEHMAN, *THE POST STAR*
THOM RANDALL, *ADIRONDACK JOURNAL*
SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD

Mr. Monroe called the meeting of the Legislative & Rules Committee to order at 9:03 a.m.

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

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

Mr. Monroe advised that the first item on the agenda pertained to a referral from the September 18th Board meeting concerning Legislation adopted by Essex County "*Seeking State Assistance with the New York Tax Cap*". Mr. Monroe outlined the information contained in the resolution adopted by Essex County, noting the difficulties for economic development in the Adirondacks due to State land acquisitions and regulations pertaining to the Adirondack Park. He remarked what was bothersome to him concerning the tax cap was that the State Government imposed upon local governments a tax cap that was lower than the amount they increased the State Budget by.

Pursuant to further discussion on the matter the Committee concluded they supported the resolution for the Adirondacks but would also like to propose a second resolution that encompassed areas outside of the Adirondack Park which called upon the Governor and State Legislature to set the State Tax Cap for Counties at the same level used by the State for their Budget to provide for a more consistent and fair system.

Motion was made by Mr. Strough, seconded by Mr. Sokol and carried unanimously to authorize a resolution in support of Legislation adopted by Essex County "*Seeking State Assistance with the New York Tax Cap*" as outlined above to be presented at the October 16th Board meeting.

Motion was made by Mr. Strough, seconded by Mrs. Frasier and carried unanimously to authorize a resolution calling upon the Governor and State Legislature to set the State Tax Cap at the same level for Counties at the same level used by the State for their Budget to be presented at the October 16th Board meeting.

Proceeding with the agenda review, Mr. Monroe stated that the next item pertained to Legislation adopted by Lewis County "*Opposing the US Environmental Protection Agency's and US Army Corps*

of Engineers Expanded "Definition of Waters of the U.S. (WOTUS) Under the Clean Water Act" and Supporting the United States House of Representatives Bill No. H.R. 1732". He explained that due to the expanded definition by the EPA and US Army Corps of Engineers of "WOTUS" the Federal jurisdiction could be expanded to encompass streams, municipal and private ditches, and even seasonal drainage areas which cut through farmer's fields. He mentioned the resolution called upon the Federal Government to support the United States House of Representatives Bill No. H.R. 1732, which preserved the existing rights and responsibilities with respect to waters of the United States.

Martin Auffredou, *County Attorney*, remarked that he believed this concerned a policy preference determination for the Committee, as the resolution would oppose any expansion of the definition if that was their intention. He said the matter impacted both private and municipal property owner interests. Mr. Monroe pointed out this posed the question as to whether they would rather answer to the State or Federal Government since the State had a number of regulations set for waterways, as well. Chairman Geraghty commented he thought less intrusion by the government was better.

Motion was made by Ms. Wood, seconded by Mr. Westcott and carried unanimously to approve a resolution in support of the one adopted by Lewis County "Opposing the US Environmental Protection Agency's and US Army Corps of Engineers Expanded "Definition of Waters of the U.S. (WOTUS) Under the Clean Water Act" and Supporting the United States House of Representatives Bill No. H.R. 1732" and the necessary resolution was authorized for the October 16th Board meeting.

Moving along, Mr. Monroe reported the next item on the agenda referred to a request from Mr. Strough for a resolution "Supporting New York State's 2017 Suffrage Centennial and the 2020 National Suffrage Centennial to Mobilize Recognition of Women During the Year 2017 and from Now Through 2020 to Celebrate the New York State and National Suffrage Centennials".

Mr. Strough informed New York State had been the first of the Eastern States in the nation to grant women the right to vote. He mentioned New York State had a significant impact on the women's suffrage movement and had adopted legislation in 1917, giving women the right to vote. He pointed out the centennial of this event would be occurring within the next few years; therefore, he stated, he had drafted the proposed resolution included in the agenda packet.

Motion was made by Mr. Westcott, seconded by Mrs. Frasier and carried unanimously to authorize a resolution in support of New York State's 2017 Suffrage Centennial and 2020 National Suffrage Centennial as outlined above and the necessary resolution was authorized for the October 16th Board meeting.

Continuing with the agenda review, Mr. Monroe apprised the next few items on the agenda consisted of referrals/pending items, the first of which pertained to an item tabled by the Committee concerning the matter of requesting the Governor and State Legislature to amend the New York State Vehicle and Traffic Law regarding designation of highways and travel by all terrain vehicles and referring same to the County Attorney with the request that he provide an opinion as to whether or not this would provide Towns with the authority to designate County and State roads as such.

Mr. Auffredou advised that he had sent a memo to the Committee members on August 13th regarding his opinion on the question posed by Ms. Wood as to whether or not the Town had the authority to designate County or State highways for travel by ATV's; *a copy of the memo is on file with the minutes*. He stated it was his opinion that a Town did not have the authority to designate a County or State highway for travel by ATV's since a State or County highway would not be under the jurisdiction of a Town as required by the operative language in Section 2405 of the Vehicle and Traffic Law.

Ms. Wood indicated her reason for posing the question revolved around her concerns regarding liability. She noted there were a number of issues in her Town with individuals driving on roads with their ATV's, rather than just crossing the road to go from one trail to another. She said this was a definite concern on their rural roads that contained no shoulder increasing the likelihood of accidents occurring.

Mr. Monroe apprised the resolution adopted by the Fulton County Board of Supervisors called for the Governor and State Legislature to amend the current law to provide local governments with increased authority to designate roads open for ATV and UTV use as they deemed necessary by deleting the "otherwise impossible" restrictions. He remarked he did not foresee any chance of the Legislature making this change.

Mr. Strough inquired whether this meant removing language from the law that currently prohibited from crossing County and State roads and Mr. Monroe responded his perception was the law contained a provision that stated Towns could designate their own roads to connect two segments of a trail.

Mr. Auffredou read the following statute from the Vehicle and Traffic Law 2405 to provide for a better understanding of what it entitled: "*with respect to State highways maintained by the State and any other governmental agency, with respect to highways including bridge and culvert crossings under its jurisdiction may designate and post any such public highway or portion thereof as open for travel by ATV's when in the determination of the governmental agency concerned is otherwise impossible for ATV's to gain access to areas where trails adjacent to the highway*". He mentioned the proposed resolution before the Committee called upon the State Legislature to amend Section 2405 to remove the "otherwise impossible" language from Section 2405. He stated this would provide the Towns and Counties with the needed flexibility to open roads to adjoining trail systems and lands for completion of trails.

Pursuant to further discussion on the matter, motion was made by Mr. Strough, seconded by Mr. Westcott and carried by majority vote to approve a resolution in support of the resolution adopted by Fulton County requesting that the Governor and the State Legislature amend the New York State Vehicle and Traffic Law regarding designation of highways and travel by all-terrain vehicles, with Ms. Wood voting in opposition, and the necessary resolution was authorized for the October 16th Board meeting.

Mr. Monroe informed the next item on the agenda pertained to a matter the Committee tabled at their last meeting regarding legislation forwarded by Rockland County regulating the use of drones to allow time for the County Attorney to review whether other Counties were taking action on the matter. Mr. Auffredou apprised he had reached out to Brian LaFlure, *Fire Coordinator/Director of the Office of Emergency Services*, Ross Dubarry, *Airport Manager*, and the County's Insurance Broker regarding their thoughts on the matter, all of which responded. He said there was currently proposed Federal Legislation regarding this matter that was incorporated into Mr. Laflure's response. He stated Rockland County had taken steps to impose regulations with respect to drone usage within their County. He informed there were a number of concerns regarding drone usage that were easily identifiable which were summarized in an article featured in *Airport Magazine*, that Mr. Dubarry had provided to him. He said the article was entitled "*Unmanned Aircraft A Benefit and Security Challenge for our Nations Airports*". He continued, the author of the article summarized what in his opinion were the 3 major risks as follows:

- 1) The disturbing potential risk was the ability of these unmanned aircraft systems (UAS's) to deliver dangerous packages;
- 2) They could be used for spying (invasion of privacy); and
- 3) Air Traffic Safety.

Mr. Auffredou explained the Rockland County law prohibited these UAS's from being utilized near the Rockland County Airport and Jail but allowed them to be used for legitimate law enforcement purposes and to fly over private property provided the property owner had granted their consent. He mentioned it appeared to be an evolving, developing area since the Federal Government had proposed regulations that would supercede any regulations or Local Laws enacted by the County once they were adopted. He stated he was not suggesting that they do nothing during the interim before the Federal regulations were adopted and mentioned if there was a need or a concern it should be addressed. He suggested that they table the matter until the next Committee meeting when Mr. LaFlure and Mr. Dubarry could be present to voice their opinions on the matter and continue the discussion.

Discussion ensued following which the Committee determined to table the matter as suggested.

Proceeding with the agenda review, Mr. Monroe apprised the next item concerned the legislation forwarded by Delaware County "*Urging State Representatives to amend the New York State Electronic Equipment Recycling and Reuse Act*" which was tabled at the last Committee meeting. Mr. Auffredou advised he would like to defer to Mr. Strough on the matter, as he was aware that Mr. Strough had completed an extensive amount of research on the matter as noted in the article featured in *The Chronicle*. Mr. Strough informed of the issues he had in the Town of Queensbury regarding recycling electronic items; he noted that the representatives at the NYSDEC (New York State Department of Environmental Conservation) were aware of the issues but provided no solution.

A discussion ensued following which motion was made by Mr. Strough, seconded by Mr. Sokol and carried unanimously to authorize a letter to call upon the State Legislature to identify the issue with the electronics recycling program and requesting that they seek solutions.

Continuing with the agenda review, Mr. Monroe apprised the next item concerned a discussion regarding the increase in minimum wage for fast food workers. He explained the increase would almost double the current minimum wage from \$8.75 per hour to \$15.

Ms. Wood referred to an article in *The Post Star* regarding what the owners of Martha's Dandee Creme felt the impact would be on their staffing; she added, she felt this would have a rippling effect throughout the County particularly since there was so much service industry in the County. She remarked she believed this could be very detrimental to the region.

Mr. Monroe pointed out this would also have an impact on the municipalities since many had seasonal workers in the Parks & Recreation Department that were paid less than \$15 an hour. He mentioned he was not disputing the fact that fast food workers were underpaid; however, he said, he was unsure whether their pay should be increased substantially at such a fast pace.

In response to Mr. Monroe's question as to whether the Committee would like to take any action on the matter, Mr. Girard advised he was uncomfortable moving forward with any action until they were more aware of the impacts.

After a brief discussion the Committee determined that no action would be taken on the matter at this time.

Continuing on with the agenda review, Mr. Monroe apprised they had received a referral from the September 18th Board meeting to discuss the process for tabling resolutions (simple majority versus 2/3 majority). He stated Mr. Merlino had expressed concerns to him about changing it to a 2/3 majority vote. Mr. Monroe inquired whether Mr. Auffredou had an opinion on the matter and Mr. Auffredou replied in the negative. Mr. Auffredou informed this had been a long standing practice for the Board and said he felt it should be carefully considered before making a change. He pointed out there may be some requirements of law that certain items required a 2/3 majority vote while others required a simple majority vote. He mentioned if they were considering this a substantial amount of time would be required to delve into what were the requirements for 2/3 majority vote versus the requirements for simple majority. He remarked he believed they could determine their own destiny here; however, he noted, he did not feel it was as simple as stating they would be changing from simple majority to 2/3 majority vote or vice versa. He reiterated he felt this should be carefully considered and debated.

Mr. Monroe informed he spent some time reviewing Robert's Rules of Order last night and he was surprised by what he found. He explained according to Roberts's Rules of Order the motion to table was designed specifically for taking something away from consideration because there was more pressing business to deal with. He continued, it was misused when used to avoid consideration of some topic because it only required a simple majority vote. He added there was another type of motion to remove something from consideration which required a 2/3 majority vote.

Mr. Strough apprised just for the sake of clarification the majority vote referred to the point system that included 501 weighted votes. Mr. Monroe advised there were 3 different versions; the majority of the vote of the individuals voting; the majority of the full Board; and the majority of the quorum which could provide for major differences in those numbers. He added if the weighted vote was used they were automatically using the majority vote of the full Board.

Mr. Westcott remarked that the simple majority being used to table an item due to more pressing business whereas taking it out of consideration required a 2/3 majority vote were two very distinctly different scenarios. He mentioned he concurred with Mr. Auffredou that it was necessary to define those two scenarios to ensure they were aware of what was simple majority or 2/3 majority if in fact the Board would like to proceed with following Robert's Rules of Order. Mr. Monroe added that Robert's Rules of Order stated it was important to remove something from consideration and therefore should require more than a simple majority vote.

Ms. Wood pointed out in their Town Law they did not always default to Robert's Rules of Order due to the fact that there were certain things in Town Laws that did not apply. She inquired whether this was similar at the County level, as well and Mr. Auffredou replied affirmatively. She pointed out County Law would determine whether they defaulted to Robert's Rules of Order or not.

Mr. Auffredou indicted in his point of view it would be ideal for the County to get to a point where they did an addendum to the Rules of the Board that were adopted every year and state specifically what type of vote was required for certain actions to avoid heated debates during the Board meetings and allow for everyone to be on the same page.

Mr. Conover indicated he believed there were specific conditions that required a super majority vote, and he cited borrowing money may be one of these instances. Mr. Monroe advised Robert's Rules of Order contained a listing of such conditions. Mr. Conover stated over the past six years since he had been on the Board it had always been a majority. He mentioned sometimes items were referred back to Committee such as when they were introduced as an out-of-Committee request and issues arose.

Mr. Monroe said there could be examples when the main motion concerned something that required a 2/3 majority vote; he remarked in these cases he felt the item should not be able to be tabled with just a simple majority vote since you would be defeating it without a 2/3 majority vote. Mr. Auffredou commented that this was all part of the checks and balances system and representation. Mr. Conover informed tabling an item with the simple majority did not remove it permanently since it only tabled it for 30 days. He remarked he did not feel it was necessary to elevate this to a super majority unless it was required by statute.

Mr. Monroe pointed out the County's rules required them to follow Robert's Rules of Order unless otherwise stated in the rules, and Mr. Auffredou concurred. He reiterated his understanding of Robert's Rules of Order was a motion to table was used when there was more pressing business and was misused when used to remove something from consideration until the next meeting. He added the motion to remove something from consideration required a 2/3 majority vote.

Chairman Geraghty remarked he thought it should be clarified in the Rules of the Board that a 1/3 majority vote referred matters back to the Committee and a 2/3 majority vote removed items from consideration. Mr. Strough inquired whether there was a definition available of what tabling a matter meant and Mr. Auffredou replied in the negative. He said although there was no definition in the Rules of the Board they defaulted to the dictionary or perhaps Robert's Rules of Order definitions. He said in his opinion the most often used occurrence was when something was tabled because they required additional information or further discussion on it. Mr. Strough asked whether tabling the topic obligated it to return next month and Mr. Conover responded he believed tabling a matter did not eliminate it. Mr. Strough questioned when the matter would be brought back and Mr. Dusek advised according to his research if a matter was tabled it remained that way until a majority vote brought it back from the table. He noted the matter never went away but rather would remain tabled until it was brought back by majority vote.

Mr. Westcott informed he felt it needed to be clarified for all of the Supervisors whether they followed Robert's Rules of Order and if so clearly state that because this was the first time he had heard what Mr. Monroe was indicating. Mr. Monroe suggested a copy of Robert's Rules of Order be reviewed at the Board meeting and the discussion continued there.

Concluding the agenda review, Mr. Monroe reported the last item referred to discussion regarding the SAFE (Secure Ammunition and Firearms Enforcement) Act provision which prevented hunting in Pack Forest because it was part of a State school. Chairman Geraghty stated that someone had brought this to his attention. He said there had always been a safety zone because it was a college campus but now due to the SAFE Act the entire area had been closed to hunting. He mentioned many local residents were concerned about this. Mr. Strough remarked he did not feel it was appropriate for hunting to be permitted in this area since there were trails and such that the general public used the property.

Ms. Wood recommended they discuss the matter with Assemblyman Stec and Senator Little to inquire what their thoughts were. She pointed out there were over 800 acres of land in her Town owned by a State University. Mr. Monroe noted no action would be taken on the matter today.

As there was no further business to come before the Legislative & Rules Committee, on motion made by Ms. Wood and seconded by Mrs. Frasier, Mr. Monroe adjourned the meeting at 10:10 a.m.

Respectfully submitted,
Sarah McLenithan, Deputy Clerk of the Board