

Minutes

Administrative Services Committee

Tuesday, January 17, 2017, 5:00 pm, Room 331

Gerace Office Building, Mayville, NY

Members Present: Scudder, Vanstrom, Whitford, Starks, Muldowney

Others: Tampio, Abdella, Himelein, Hemmer, Caflisch, Chagnon, Horrigan, Marsh, Crow

Chairman Scudder called the meeting to order at 5:00 p.m.

**Approval of Minutes (12/12/16)**

MOVED by Legislator Whitford, SECONDED by Legislator Vanstrom

*Unanimously Carried*

**Privilege of the Floor**

Mr. Caflisch: Mr. Chairman, I'd like to be able to discuss number 6. Would you like me to speak before hand or I can enter into the discussion but will leave it up to you.

Chairman Scudder: If you don't mind staying, I would like you to enter in at the end.

Mr. Caflisch: That's fine.

**Local Law Intro. 1-17 – A Local Law Amending the Chautauqua County Code of Ethics**

Mr. Abdella: The Ethics Board periodically reviews the Code of Ethics and consults with our department regarding potential amendments and so they last had done that in 2013 and they did it again over the last several months. They have recommended a number of very minor changes. Kristen Wright, Assistant County Attorney, in my office, sent out a memo to Legislators and to the County Executive describing what those are. Some of it is just cleaning up some of the language and compressing some of the provisions and then also updating the instructions in the Financial Disclosure form. I think the item that's of most note at least to me is that there are sort of companion provisions in New York State law regarding disclosure and what we wanted to do was have this forum serve as dual reporting form and satisfy both State law and the local County disclosure requirements. So that's been done which I think is a good thing in that the State law similar to us requires some of these disclosures to be done on at least an annual basis and if you do it that one time, you don't have to do it constantly during the year so this pairs them together and that should work well. I'm happy to answer any questions but that's what this is about. If this were to move through the Legislature the modified disclosure form

with its new instructions would be used this spring in the annual disclosure. I think they usually send them out early March and they are due at the end of April. Something like that.

Legislator Muldowney: I assume if (*inaudible*) State file one of these, we'd still have to file with the County, right? Same form?

Mr. Abdella: Yes, because in this case you are responding to the - you are filing for purposes of your County office.

Chairman Scudder: Thank you, everybody good?

Mr. Abdella: You can vote if you would like and Mr. Scudder agreed to be the legislative sponsor. Anyone else is welcome to sign it too.

Chairman Scudder: Should we pass it around? What do you want us to do?

Mr. Abdella: You are set to go.

### **Proposed Resolution – Confirm Re-Appointment - Chautauqua County Ethics Board**

Chairman Scudder: Any discussion? I know Rose Sebouhian and she's a good re-appointment.

Legislator Vanstrom: I agree.

*Unanimously Carried*

### **Proposed Resolution – Close Accounts for Completed IT Capital Project as of 12/31/16**

Ms. Crow: Just cleaning up capital projects. Every year we try and go through the list and see what is ongoing. Talking to other departments and see which ones can be closed in each department.

Ms. Marsh: This year we did a formal – I sent off to every department and asked them to comment on all their open projects so I.T. had this one. There are separate resolutions for each department.

Chairman Scudder: Any questions, comments, or concerns? We assume they came in at budget or under budget.

Ms. Marsh: I believe it was under if I remember correctly.

Ms. Crow: Or if they were over, they would have had to do a budget amendment.

Chairman Scudder: Any questions?

*Unanimously Carried*

**Proposed Resolution – Quit Claim Deeds**

Mr. Caflisch: The two parcels here before you are vacant lots. The first parcel was a house that was demolished and the Woman's Health Center on Foote Avenue is who is the purchaser, you might say of Father Judge Apostolic Land Company. It would be my recommendation to let these parcels be purchased and I think will be put to a good use.

*Unanimously Carried*

**Discussion – State Comptroller's Report**

County Executive Horrigan: As you know the State Comptroller was here and did an audit of pay and investments and we have responded to that report as the County Executive and the next step is within 90 days we have to have a corrective action plan. But what I would like to do, everyone received a copy of that. What I would like to do is read this into the record which is my initial response to the Comptroller's report. I will also be presenting this to Audit & Control. I'll be requesting two Legislators from Audit & Control or wherever the Chairman thinks they should come from to work with us on that corrective action report that is due in 90 days. We'll put together our best recommendation and then that will be available in March for the Legislature so I will read this.

We do appreciate the hard work of the State Comptroller's office in analyzing County procedures and offering suggestions to improve County operations. While the OSC Report contains many items worthy of further discussion, it should be noted that myself, the Director of Finance, and the County Attorney are not in agreement with some of the conclusions contained in the OSC Report.

**Investments**

I am confident that the County's investments have been well managed by the Director of Finance in consultation with the County Legislature's Audit and Control Committee, and have attained beneficial results for the County and its taxpayers. The OSC Report does not fully take into consideration the impact of the County's actual interest earnings from its investment portfolio, and does not recognize that over half of the County's investments are held for long-term purposes not requiring high liquidity. Although a few of the County's investments in New York local government and New York local development corporation bonds were not specifically authorized by the State Comptroller, the investments in question produced a net gain for the County and this issue has been resolved. It was identified by the Director of Finance and corrected prior to this audit. Most importantly, it is with very careful deliberation that the Director of Finance has prudently balanced our need for beneficial investment returns, which you know goes to fund capital projects, while maintaining safety and liquidity. Subject to the County Legislature's direction, I will not be recommending any changes to our general investment approach.

### **Salaries and Fringe Benefit Payments**

Regarding annual salary and fringe benefits, the County's conversion of designated annual salary amounts to managers to a bi-weekly rate has been the practice of County government as far back as the 70s. We checked records and we could not find anything different. While such a consistent past practice for many decades is a strong indicator of legislative and administrative intent it could be deemed and cannot be deemed as a "mistake," a search of the County's local laws and resolutions over the years do not show a specific legislative ratification of the bi-weekly conversion procedure. As a result, I did implement an adjustment to the 2016 payrolls for County managers and elected officials to address the findings and we will continue to use such adjustments unless the County Legislature expressly ratifies a bi-weekly procedure. In other words, we have conformed to their recommendation.

Finally as Local Law 1-83, as amended in 1990, provided "vacation buy-back" benefits for County managers and full-time elected officials. While the OSC Report indicates that such benefits cannot be afforded to full-time elected officials, it has been the consistent opinion of the County Attorney since 1996 that full-time elected officials may utilize vacation buy-back benefits as long as they document their time, as is the procedure used for New York State Retirement System benefits. The OSC Report attempts to distinguish the legal status of vacation buy-back benefits from New York State Retirement System benefits, but the County Attorney's position remains unchanged. Should the County Legislature choose to modify Local Law 1-83, unless they do that the County will continue to implement the vacation buy-back provisions of Local Law 1-83 as written. I note that many elected officials and citizens of Chautauqua County have expressed concern over the years as to whether the salary and benefit package afforded the County's elected officials is sufficient to attract quality candidates. Through Local Law 1-83, the County Legislature moved to address this concern by giving full-time elected officials the same benefits package afforded all County managers.

Once again, this is our response. We will be requesting two Legislators to work with our team to finalize a corrective action plan which is due back in 90 days so that we merge together. That will be a recommendation to Audit & Control. Audit & Control will approve that or modify that and will go to the Legislature. That is my response. Do you have any questions? That is where we are at now. Corrective action plan.

Chairman Scudder: Sounds like you have it under control.

Legislator Starks: Thank you.

Legislator Vanstrom: Thank you.

Chairman Scudder: Thank you. We appreciate it.

### **Discussion – Amending Rules & Regulations Regarding Verbatim Minutes**

Chairman Scudder: Do you have something for the committee?

Clerk Tampio: Yes I do.

Chairman Scudder: I think that we're all familiar with what we're talking about here. This is a sampling of a direction we're heading towards.

Mr. Abdella: I was asked to prepare a draft rule change that would eliminate the requirement at the committee level only of verbatim minutes produced by the legislative staff for all committee meeting discussion and instead this resolution calls for any actions by the Committees, any votes taken to be included in written minutes, including the results of that vote and how each individual Legislators voted. But, with only at this point have an audio recording made of each meetings debate portion of the meeting and that would be in some manner be made available to Legislators. It would be an item as it is now that would be considered public information and available to the public should they request it. I think the Chairman asked that this draft be included in for discussion on each of this month's committee meetings so that feedback could be obtained on the idea of eliminating the complete verbatim minutes requirement.

Legislator Whitford: What you are talking about is the hard copy but the tape would be available for the entire verbatim discussion.

Mr. Abdella: Yes.

Mr. Whitford: So this only pertains to our County minutes that are sent out (*inaudible*),

Mr. Abdella: Right so the resolution would now include in it specifically a requirement that an audio recording be made of each meeting.

Legislator Starks: How would all of the audio recordings be stored?

Mr. Abdella: There has been some discussion about I.T. participating in having those put in a digital file format that could be accessed by Legislators in some manner and then certainly if the public requested, they would be available as well. But, what I was asked in the Public Facilities meeting was, is it required that those digital recordings be put up on the website. I'll look into that but I don't think that's the case but they could be but I think it becomes a logistical issue and a space issue as far as being put up.

Legislator Vanstrom: I'm a little confused. Under "b", that the Chairman is going to be responsible for keeping the minutes or delegate the duty. Delegate it to who, Kathy?

Mr. Abdella: Yes.

Chairman Scudder: But isn't that how it is written now?

Mr. Abdella: Yes.

Legislator Whitford: Are those minutes available for us (*cross talk*)?

Chairman Scudder: But that's a responsibility that is in place now. It's just by the grace of the Clerk and -

Legislator Whitford: You added a responsibility for -

Legislator Muldowney: If somebody wanted to check how people voted or how people argued, they can check it on the tape of the recording in that committee?

Mr. Abdella: Well, how they voted will be produced as a written document.

Legislator Muldowney: Well, wouldn't support their argument for how they -

Mr. Abdella: As far as the debate portion of the meeting, you'd have to go to the tape to be able to hear that.

Chairman Scudder: If I'm correct, we'd be provided with the written meeting and it would show the resolution and how the vote went so that would still be provided, just not all the discussion or comments. There could be a lot of humor missing from Administrative Services.

Jim did say that possibly the Post Journal would be willing to transcribe all the minutes in the paper every month, verbatim and we do appreciate that but I don't think that we're going to take you up on that. Just kidding. (*cross talk*)

Mr. Caflich: I appreciate you indulging me to respond to this issue. I've kind of had the unique experience of sitting on both sides of this table and over the time period, I've been through a lot of very serious issues that have come up for County government. Whether it's the landfill, County Home, different Public Works projects, the bulk of your work and discussion happens in this setting. In the committee meetings. When you get to the full Legislature, your debate and discussion is usually limited, there isn't much so to find out why you went in a certain direction or took a certain action, the history will be lost. I want to give you a couple of examples. Recently, Legislator Chagnon was concerned about the tax collection agreement. I went back 6 years or 7, I can't remember right now, but I was able to fish and find without too much trouble, the discussion that we had to get into that. Last year I had a lawyer in my office who was concerned how we had handled a quit claim deed. I was able to pull up the minutes of the meeting and after he read the minutes, he was satisfied that o.k., not legal action would be taken. I'm very concerned that that kind of ability to quickly review, look at meetings, understand the history of why you took the action that you did will be lost. Even though you have it on the tape, I haven't got the time as a department head to sit there and go through hours and hours of tape because there is no way to fish through it very quickly. So, I think that you should very much consider what I see as committee minutes are coming up pretty regular. Your budget hearings are probably the ones that are the longest and the toughest. I know that there are professional transcriptionist that would work for a day for you on a daily basis and the number I heard was a \$1,000 a day for three days and would get your minutes out to you and still save you at the end of the day of hiring another person or keeping your staff at a minimum. But, I am very, very concerned of how in the future, as a department head, when I get into these discussions with different people, how I'm going to have the ability to look back and how you handled a certain action at a certain time. I know as a Legislators, I reviewed minutes, I won't say I read every

minute of every meeting but there were a lot of important minutes that were taken because we had a discussion in this setting. I don't know how you can keep track of in the future.

Legislator Vanstrom: Aren't you at all of these meetings. I see you every month. You are here every month taking notes.

Mr. Caflisch: I don't take notes because I'm here to discuss my issues but an item that comes up for discussion today and we discuss what was here, it wasn't what I call a big issue but a couple of years down the road, how am I going to remember what we discussed and why we took the action and why I recommended that action to you.

Legislator Vanstrom: You are pretty good. Usually when I call your office, you remember exactly what happened at exactly what moment and exactly what change in procedure.

Mr. Caflisch: Well, I will say that my memory is pretty good but I'm not always going to be here. Someday I'm gone and then the next person comes in – some of the issues that I have looked at have been previous directors. I've gone back 10 years sometimes.

Legislator Vanstrom: It's a good thing that we have the legal department.

Legislator Starks: I know that you can't speak for other department heads, but how frequently do you find yourself going back? Like, how many times a month?

Mr. Caflisch: I couldn't say it on a monthly basis but there are several times in a year when I'm going to go back and try to research something. You just don't know what that issue is going to be. If you lose that history, I'd be lost if we got into a legal situation, I'd be lost to come up here to Steve and I don't know how you are going to – can you go back 5/6/7 years and look at some of these issues on a tape. Who is going to do all that work? I can't remember exactly what committee meeting because I can look at your resolutions and put in key words on the "G" file and it will come up.

Legislator Vanstrom: What is the "G" file? Do we have access to the "G" file?

Mr. Caflisch: You do not because you are external. If you were internal, there is a "G" file. I can go back to resolutions, I think we have them to 1999.

Legislator Vanstrom: You have an advantage over us then, I guess.

Mr. Caflisch: You can always come up here and get on a computer and do that. Maybe that "G" file should be opened up so you could get more of the history if you wanted to. But the "G" file is where all the local laws, going back 50/60 years, the resolutions go back to 1999 and all these committee discussions go back that far. I don't want to see this legislative body go over and over and reinvent the wheel six times when maybe you can say, o.k., do you remember this when we acted on it before because –

Legislator Vanstrom: We call the legal department. We call them all the time. I can vouch for my colleagues on that one.

Mr. Abdella: Just to address some of what Jim is saying. I certainly would prefer from a convenient standpoint that the read minutes still exists but I understand some of the logistical problems that are being discussed. The legislative history and this was discussed in the last committee, is absolutely crucial so as the intent is, these tapes have to be kept forever. Let's face it, if there is a breakdown in the tape during the meeting then it's lost anyway. There is not going to be a verbatim, so, I think Jon DeAngelo, the key is getting his assurance which we can get, that these tapes can in digital format be preserved permanently and always will be accessible. You can then at that point, do word searches of resolutions and find the resolution or the piece of legislation that you are interested in to then go listen to the tape. Now, as far as the tapes go, there is discussion about being able to key in the time that a particular item on the agenda is discussed bing, bing, bing, down the line and so you are not going to have – if you have a need to go listen to the tape, you are not going to have to keep winding it forward to see if you have the right resolution yet. It will be keyed to a certain time and you can hopefully go right to the discussion of the item. Then if the transcript is needed, it could be produced. If someone listens to it and decides that's very important, I need it for a court case, I need it for something else, then it can be produced. Is that as convenient as the current circumstance? Obviously not. But, I think it's satisfactory if not ideal. But certainly what is crucial is the tapes are forever available because yes, we must have access to that legislative history.

Mr. Caflisch: What is nice too again with the way that they are now, if you want to print it out, it's nice to be able to listen and then tell somebody to do a transcript but the transcript might come a week or two later. Depends on how busy people are. If I have a situation where I can solve a problem in a couple of hours or less, which generally what happens, it's going to keep things moving a lot quicker. So, that's my take on why you should keep producing verbatim minutes. I know that technology is going to keep advancing in the near future. I've seen it work a little bit but it's not quite there yet where you will be able to put on a mic and it will, like Ceris(?) does on your apple phone. It's not quite there yet but I think in the next few years it will get there. I would hate to see history lost or have to – like Steve, I know the verbatim will be digitized in there but it's just taking the time. It could take a day or longer to find what you are looking for as you try and review that.

Mr. Abdella: The other idea that I thought about, I don't know how practicable or (*inaudible*) it is, would be some mechanism in which selected resolution debate would be done even contemporaneous because one or more Legislators want to be able to read it that month say, or there is a certain type of resolution where it's known, whether it's quit claim deeds or others that they come up with something that you need to be able to refer back to so rather than just leave it to the tape, you go ahead in some manner, the legislative office is requested to make a transcript at that time of that item.

Chairman Scudder: Almost like if it was a roll call vote item on the floor, does that give it an importance in committee?

Mr. Abdella: You think about as was mentioned things like the County Home and some of these hot button issues that have been there where maybe there is a desire to let just get a transcript done so that Legislators have that easily at their disposal without having to listen. That is a possibility as well.

Chairman Scudder: I have a couple of things. First of all, I appreciate your comments. I absolutely do. I actually find myself with a few municipalities near me, find myself bragging about our minutes in the way we do this process. Because it's incredible out there, we are so far above what some municipalities are doing, just everything that we do here., I appreciate the way we do it. If we do something like this, is there going to be costs to this?

Mr. Caflisch: I don't think that you can store infinite amount of information downstairs without some costs. I don't think that it is going to be huge.

Legislator Starks: At some point, you are going to need another server for it.

Mr. Caflisch: Right, because it's going to get voluminous.

Chairman Scudder: I know that one of the big rubs is the budget hearings. Could we just be specific to those and just eliminate those?

Mr. Abdella: Yes, I think it's all fair game as far as what you decide what you want verbatim minutes for as far as debate and what you don't.

Chairman Scudder: I have looked at, this is just myself, I don't read the minutes a lot other than I usually check the vote and if there is a no vote, then I might be calling that person to find out why.

Legislator Vanstrom: It's fun to read the minutes.

Chairman Scudder: I do look them over. Budget minutes, I have never sat down read through all the budget minutes. Maybe that's something I should be doing but usually if there is a topic in there, you talk to the person.

Mr. Caflisch: It's hard to predict what you want to read or go back to. That is some of the issue. Some of it is important to you but may not be important to others.

Chairman Scudder: For someone like myself, it's all very important. I can't speak for the rest of the committee.

Mr. Caflisch: Thank you Mr. Chairman.

Chairman Scudder: Thank you for your comments. Is there anything else?

**Other**

Chairman Scudder: Anybody have anything under other? I have a question. Mrs. Marsh, is this your last Administrative Services Committee?

Mrs. Marsh: Yes.

Chairman Scudder: Well, I would like to say on behalf of the Committee thank you very much for your service to this Committee, to the Legislature, and especially to people in Chautauqua County and we're going to miss you. (Applause). Motion to adjourn.

MOVED by Legislator Whitford, SECONDED by Legislator Starks and duly carried the meeting was adjourned. (5:35 p.m.)

Respectfully submitted and transcribed,  
Kathy K. Tampio, Clerk/Lori J. Foster, Deputy Clerk/Secretary to the Legislature