

Date: January 23, 2013

COMMITTEE MINTUES APPROVAL

ENVIRONMENTAL, ENERGY, AND TECHNOLOGY:



Carl Belfiglio, Chairman

Tracey Bartels, Deputy Chairman

Craig Lopez



John Parete



Kenneth J. Ronk



Mary Wawro



Kenneth Wishnick

Today's Date: April 4, 2013

Environmental, Energy, & Technology Committee

Regular Meeting Minutes

DATE & TIME: January 23, 2013, 6:00 PM

LOCATION: Karen L. Binder Library, 6th Floor, COB, Kingston, NY

PRESIDING OFFICER: Chair Carl Belfiglio

LEGISLATIVE STAFF: Krista J. Barringer, Deputy Clerk

PRESENT: Legislators: Tracey A. Bartels, Craig Lopez, Kenneth J. Ronk (left 7:28), Mary Wawro and Kenneth Wishnick (arrived 6:14)

EXCUSED: None

QUORUM PRESENT: Yes

OTHER ATTENDEES: Legislators Mary Beth Maio and James Maloney, Legislative Counsel Langdon Chapman, and Deputy County Executive Crannell

- Chair Belfiglio called the meeting to order at 6:04 PM and requested attendees to sign in.

Discussion: RRA Board Composition

Chair Belfiglio distributed draft Resolution 279 of 2012 and a chart of the current RRA composition.

Legislator Bartels confirmed Legislator Parete was informed of the meeting. Deputy Clerk Barringer noted the distribution of an email from Legislator Parete.

Chair Belfiglio summarized draft Resolution 279. He noted this Resolution was pulled on the floor by him as he was concerned that the Legislature was hastily making a last minute amendment to change the Board structure. He noted he would like to bring back the Resolution with specific changes to the Board structure. He noted the Committee suggested at the last meeting nine members to include four original members that are picked by the Legislative Majority, one original member that is picked by the Legislative Minority, two representatives from the Association of Town Supervisors which needed to be determined if it would be Supervisors or other elected officials, and two County Legislators.

Legislator Ronk stated he was asked to contact the Chair of the Association of Town Supervisors. He stated Town of Rochester Supervisor, Carl Chipman, has recently been elected to the position. He noted Supervisor Chipman indicated a preference that their representative be just Town Supervisors.

Legislator Bartels asked if Supervisor was providing his own opinion or speaking on behalf of the group as a whole. Legislator Ronk felt it was not a decision by the whole group.

Chair Belfiglio noted it was the Legislature's decision but that they would like to have the Association on board with their decision. He noted the concern of the Town Supervisors already burdened with a number of meetings and if two Town Supervisors were unable to make, there would be no representation.

Legislator Bartels felt it should be an elected official. She felt the Legislature could provide for the appointment to be Supervisors or specific elected official. She felt this left it open so that if the Board wanted it to be two Supervisors, they could do that and yet, if they could not get two Supervisors, they would still have the leeway to have representation.

Legislator Bartels felt they should be specific to allow for two elected officials that were not from the same Town as they want diversity. She felt in the first year, they might find people eager to serve but in the future they might find it hard to fill the slots and they might not be able to sustain the two position with just Supervisors.

Legislator Wishnick wondered why it might be a problem if the representative was a public works representative, say from the City of Kingston. Chair Belfiglio stated he mentioned this in the past and agreed they would probably be very informed but noted they are not elected in the City of Kingston. Legislator Wishnick noted the elected official may have considerably less knowledge and the County may be better served to have the one with the most knowledge on the Board.

Legislator Bartels noted this makes sense but did not know if the technical person was the best representative for the whole body. She noted the representative would report to the Supervisor, who would report to the Association and information may be watered down. She felt if they could not have Supervisors, the Legislature should give them the authority to appoint other elected officials and was also agreeable to just two Association of Supervisor members. She felt by removing the steps, it was potentially an agent of one municipality with specialized interest.

Legislator Wishnick asked how they could guard against this with the Supervisors. Legislator Bartels felt this was ensured by the Supervisors attending the Association meetings and interacting with other Supervisors with concerns.

Chair Belfiglio noted the original five, appointed by the Legislature, are not elected officials and come from a diverse background. He further noted that as appointments by the Chair and confirmation by the Legislature, these appointments are tied politically. He wondered why elected officials at an Association would pick someone to represent them. Legislator Wishnick noted the only reason to pick someone is if no members wanted to attend more meetings. Legislator Bartels felt this was a serious consideration and concern that could realistically happen.

Chair Belfiglio wondered the amount of correspondence from the Town Supervisors on the RRA issue. Legislator Bartels noted during the joint committee process, they reached out to the Association with Supervisor John Valk as Chair and he indicated to them that this was the Legislature's purview. She noted their concerns were very specific regarding the Legislature or the RRA's actions. She felt this was different than regular representation at a critical Board that meets often for fairly long meetings in the day time. She felt it should be listed as two members of the Supervisor's Association.

Chair Belfiglio wondered if there was anyone opposed to two Legislators on the Board. Legislator Bartels stated Legislator Parete was opposed to this. Legislator Lopez stated he was uncomfortable with any elected officials serving at all. He stated there would be a number of issues coming before them, such as the landfill and being an elected official will play in their decision.

Chair Belfiglio felt taxpayers only have Legislators watching out for them and the Board and Executive Director do not want Legislators involved. He felt putting elected officials on the Board adds accountability and oversight where there wasn't before.

Legislative Counsel Chapman felt the Legislature should ask the Attorney General for a "Compatibility of Office" opinion and noted this would determine if two positions can be held by the same person. Legislator Wishnick indicated this was not unproven ground as other Counties do have elected officials on their RRA Boards. Legislative Counsel Chapman felt it still made sense to ask for the Compatibility position as it will ultimately get to the Governor and he will ask for the Compatibility position. Legislator Wishnick noted Rockland County has supervisors on the Board. Legislative Counsel Chapman noted what he has learned from the Governor is just because it exists today does not mean it has to be that way tomorrow. He felt it best to find any problems upfront and advised when the Committee reached it's conclusion it should send a letter.

Chair Belfiglio noted the ultimate goal was to make the Agency pay for itself and the only item the Legislature cannot get rid of is the debt. He felt there would be no conflict if the Legislature got rid of the net service fee and remained as only the

guarantor of the bond. Legislator Bartels noted the County still had the potential responsibility of paying the net service fee as it was written in the contract.

Legislator Bartels noted the fiduciary responsibility for a Supervisor is to their Town or Village while the fiduciary responsibility of the RRA Board Member is to the Agency. She felt this was different than making a public benefit corporation whole which could be two total different and at odds issues. Legislator Wishnick felt this was not alien to a Legislator whose responsibility is to the taxpayers in their own district and reconciling that with the greater County good.

Chair Belfiglio felt the Association of Supervisors could be described as their seat is as the representative of the Association. Legislative Counsel Chapman noted once appointed to the Board, their fiduciary responsibility is to the Board. He stated this goes to the heart of the conflict of having Legislative officials serve on these Boards. He noted they take an oath to protect the constitution and be a trustee of the tax payer dollars and they have a corporate duty to this corporate Board. He noted this was the same point raised last year of having an Ulster County Legislature appointed to the Golden Hill Local Development Corporation.

Legislator Wishnick asked if Legislative Counsel Chapman was advising the Committee. Legislative Counsel Chapman opined there was an inherent conflict in appointing a Legislator on a Board. He noted Legislators had a duty to the taxpayers which is a different duty to the Corporate body. He did not see how the two positions these two positions could not at some point conflict. He felt the conflict was less when it was a County Legislator as their duty was to the entire County even though they represent a specific district. He felt the duty to a Supervisor or a Mayor was a lot different. Legislator Bartels concurred this point.

Legislative Counsel Chapman stated they could appoint two non-voting members that would be entitled to all the rights and privileges of a Board Member, including attending Executive Sessions, but not actually vote. He felt an effective Board Member could convince their colleagues, whether or not they have a vote.

Legislator Bartels felt a Supervisor would have a hard time voting on a budget that might have a negative impact on the Town as Town budgets are really tight.

Legislators discussed the possibility of appointing two non-voting members as Association of Supervisors representatives.

Chair Belfiglio asked the Committee's position on Legislators being appointed to the RRA Board. Legislators Ronk, Bartels, Wawro and Chair Belfiglio indicated they were in favor. Legislator Lopez indicated he was slightly uncomfortable to have people with political influence on the Board but felt he was not completely opposed to it. He noted

on an Orange County Community Development Board there is a mandate for elected officials and he believed they rotate their voting members. Legislator Wishnick discussed the original intent of creating the RRA entity and felt this does not feel it reflects the current situation unless the RRA Board is considering the siting of a landfill. Legislator Lopez concurred the Town of Wawarsing was identified as one of a potential twenty-one locations for a landfill and if the Supervisor of the Town of Wawarsing sits on the RRA Board, he might to everything he could to push back on this issue.

Legislative Counsel Chapman summarized the concern as the Supervisors are indicating they are not pleased with the RRA, the Legislature is not pleased with the unaccountability with the RRA, the Legislature would like a seat on the Board, the Legislature would like better communication between the Supervisors and the RRA, and the Legislature would like the RRA Board would act in the best interest of the entire County as they are obliged to do. Chair Belfiglio felt this was accurate as the Legislature did not want undue influence for specific areas of the County.

Legislative Counsel Chapman suggested creating an Advisory Board that would have to vote first or at the same time as the RRA Board. He noted if the Advisory Board voted differently than the RRA Board, the RRA Board would need a super majority to go forward. He noted this would give the authority of the Town Supervisors and Mayors. He noted the Advisory Board could be a mix of RRA Board Members and Advisory Board members constituting the Advisory Board. The Advisory Board would recommend and the RRA Board could ignore the advice but would have to do it with a super majority, which gives the authority but without the final decision.

Legislator Wishnick expressed a concern with respect to the functioning of the Agency. He suggesting restricting the areas of which the Advisory Board could advise to items such as planning for the future, policy, and tipping fees but the day to day and contract items would be left to the RRA Board.

Legislator Bartels asked who would be on the Board and who would be on the Advisory. Legislative Counsel Chapman noted the Legislators could be appointed to the RRA Board, unless the Legislature does not desire. He felt the Legislature would structure it unless the State says no due to compatibility issues.

Legislator Bartels asked about the Advisory Board make-up. Legislative Counsel Chapman noted the Supervisors are feeling excluded and this could bring them in.

Chair Belfiglio noted they tested the waters when the Legislature initially created the Special Committee on Future of the RRA and wanted to involve the County Executive, Town Supervisors, Mayor. He noted at the time, they heard from the County Executive and Mayor that they did not want to serve.

Legislator Wishnick suggested having the leader or two appointees from the Advisory Board as non-voting members on the RRA Board.

Chair Belfiglio suggested one voting member from the Association of Solid Waste. Legislator Ronk felt this would be a conflict of interest and Legislator Wishnick noted there would be no responsibility to the public good in that appointment.

Legislative Counsel Chapman clarified if there would be just a couple of Supervisors that are concerned and this would lapse and they would not be able to sustain the RRA Board seats. Legislator Bartels and Ronk felt the Supervisors could sustain two seats. Legislator Bartels was more concerned with the conflict of a Supervisor answering two masters and felt it would be hard to vote on something that hurt their own town but would benefit the County as a whole. Legislator Ronk suggested putting three Legislators and one Supervisor and felt if the Supervisor was one of nine votes, it would not by itself affect the greater vote. Legislator Bartels felt getting three Legislators to sit might be hard.

Chair Belfiglio liked the Advisory Board as the RRA Board would need a super majority and that the Advisory Board would not be voting on any day to day operational issues.

Legislator Bartels felt if there was an Advisory Board then the RRA Board would be a seven member Board to include the five non-elected members and two Legislators.

Legislative Counsel Chapman concurred and suggested the Advisory Board could be a four member Board to include two members of the Legislature, who also serve on the RRA Board, and two members of the Association of Town Supervisors and Mayors. He supported Legislator Wishnick's point that the Legislature would define what the Advisory Board votes on which requires a super majority if the RRA Board would deviate from the Advisory Board decisions. He indicated the Legislature could instruct the State to authorize the RRA to create an Advisory Board and if it so decides, the Legislature would decide by local law what items the Advisory Board would address.

Legislator Wishnick felt they would have to be careful how to structure the Advisory Board. Legislative Counsel Chapman concurred and felt it would be more work but would result in the accountability that the Legislature is seeking. He felt a longer process would ensure that the level of interest is sustained.

Legislator Wishnick asked if the State legislation would have to define the make-up of the Advisory Board. Legislative Counsel Chapman answered no.

Legislator Wishnick asked if the County reached a point where the Supervisors were happy with the RRA operations and no longer found value in attending, could they make-up be changed to allow for the development of future RRA Board members on

the Advisory Board. Legislative Counsel Chapman responded he did not think the State legislation would have to define it but indicated there would be general support from the Senate based on what the local communities want but it would get hung up in the Assembly.

Chair Belfiglio clarified the County could have elected officials that serve on both the RRA Board and the Advisory Board. Legislative Counsel Chapman indicated yes. Chair Belfiglio asked what would happen in a deadlock, which side would they vote on. He noted they should be voting on the best interest of the residents of the County.

Legislator Bartels noted on an even member Advisory Board, they run the risk of a split 2/2 vote. Legislative Counsel Chapman felt this encourages the approval of things and noted they could indicate in the case of a tie vote, a super majority is not needed but noted this defeats the purpose of the Advisory Board.

Legislative Counsel Chapman suggested the Advisory Board could consist of two Supervisors and two Legislators and the four members pick a fifth member.

Legislator Bartels noted the League of Women Voters, as highly involved citizens, brings to mind the need to reinstitute a citizens' advisory board. She noted she was not opposed to having someone from the League on the Advisory Board.

Chair Belfiglio expressed concern that this would bring it back to the political scheme found currently on the RRA Board. Legislator Bartels responded if the Advisory Board had two Legislators, whether from the RRA Board or two separate voters, two Supervisors and a League of Women Voters for a five member Board. Chair Belfiglio clarified the concern of how they are picked. Legislator Bartels felt it was simply two Supervisors picked by the Association, two Legislators picked by the Majority and Minority and a League of Women Voters appointment. Chair Belfiglio asked if there would be concern picking one group over another. Legislative Counsel Chapman suggested having the RRA Board pick the fifth person. He reiterated the fiduciary duty responsibility to the RRA. Legislator Bartels wondered about the RRA Board making the pick, especially with two Legislators on the Board. Legislators discussed having the fifth appointment being made by the County Executive.

Legislator Bartels suggested one County Executive appointment, two Supervisors, and two non-elected officials on the Advisory Board.

Chair Belfiglio clarified the proposal consisted of a seven member regular RRA Board consisting of five Legislative appointees and two County Legislators and a five member Advisory Board. He noted the Advisory Board is not part of the quorum for the RRA Board.

Legislators discussed whether the two County Legislators on the Advisory Board should also be the two County Legislators appointed to the regular RRA Board.

Legislative Counsel Chapman felt the regular RRA Board would always be the Board and with four elected officials on the Advisory Board, the Executive Director of the RRA would attend all meetings of the Advisory Board and would note the power people who are elected have in driving the debate. He compared it to an effective committee. He advised they not put a representative of a not-for-profit as the fifth person but rather allow the tax-payer fiduciary representatives find that fifth person.

Legislator Wishnick felt this made the organization upside down as the five appointments on the RRA Board would not stand up to the strong elected official group.

Legislator Bartels noted the prior model, prior to the Advisory Board discussion, included the five appointees, two County Legislators, and two Board of Supervisors members. She noted in this model, the four person powerhouse would be on the RRA Board.

Legislator Bartels noted the RRA Board was not subservient to the Advisory Board, it just required a super-majority in areas of disagreement.

Legislator Wishnick discussed the two tiers resulting in power-deciding tiers.

Legislators discussed various scenarios and models.

Legislator Bartels suggested having the Advisory Board having the equivalent of a veto model where they could react to an action of the RRA Board, at which time the RRA Board would have to have a super-majority to override the reaction of the Advisory Board.

Legislators discussed calling it a monitoring, oversight, advisory board. Legislator Bartels noted the role of the Recycling Oversight Committee in adding new recycling materials to the regulated materials with the approval of the Legislature. She noted the Agency cannot take regulated recycling materials without getting permission from the Recycling Oversight Committee first.

Legislator Ronk expressed his pleasure with the Advisory Board having veto power as it makes them an after-the-fact Board and not able to push the RRA Board.

Legislative Counsel Chapman and Legislator Bartels noted it ensures the need for communication between the Advisory Board and the RRA Board. Legislator Ronk felt this ensured there would be no trouble in filling the Advisory Board. He felt it as a safeguard from bad decisions instead of a vehicle to influence decisions.

Chair Belfiglio noted the RRA Board would need to base decisions on the potential of Advisory Board reactions and the change of dynamics for the Board's decisions.

Legislator Wishnick highlighted the limits the Advisory Board would have in responding. Legislator Bartels felt this would signal actions that are subject to public referendum. She noted the Advisory Board would not meet regularly but rather have a specific amount of time to meet after the RRA Board makes a decision on a item included in the purview of the Advisory Board.

Legislators discussed the specific action items the Advisory Board should focus on, the Legislature's concern of no accountability at the RRA Board, the need to be specific to pass the full Legislature, and if the Legislators should be the same two on the RRA Board and the Advisory Board.

Legislator Wishnick expressed concern a group with a vested interested who would keep a close watch on certain parameters and decisions made by the RRA Board. He felt they would convene to review, if needed, and possibly reverse a decision. He felt this is what the Environmental, Energy, and Technology Committee should be doing and asked if the Environmental, Energy, and Technology Committee would still have the same role. Legislator Bartels responded the Environmental, Energy, and Technology Committee had no authority to reverse a decision but maintained broad oversight of the full agency which included a landfill and recycling. Legislator Wishnick clarified the Environmental, Energy, and Technology Committee role was strategic planning. Legislator Bartels indicated this was not officially stated but highlighted the Environmental, Energy, and Technology Committee had no veto power and no true oversight.

Chair Belfiglio had no problem with standing Legislators being on the RRA Board as he felt that would be the oversight for the entire Legislature, the County, and the residents. He stated he had no desire to micro manage the RRA Board and felt the Advisory Board would be better than where the County is now.

Legislators discussed having one of the Chair or other Environmental, Energy, and Technology Committee member as one of the appointments to the RRA Board.

Legislators Lopez and Wawro indicated their support of the Advisory Board structure concept as it covers more basses.

Legislators discussed specific versus broad language in the Local Law. Legislator Bartels suggested the State enabling law be left broad and just grant the power to the Legislature. Legislative Counsel Chapman discussed the benefit of keeping the State enabling language flexible and not tie the County's hands.

Legislative Counsel Chapman noted the State Law needs to explain the role of the Advisory Board and the Local Law can require Legislative appointments to the RRA Board come from the Environmental, Energy, and Technology Committee.

Legislator Bartels highlighted other items that would need to be specified in the Local Law, including the provision of how the Advisory Board is notified of RRA Board decisions, terms, how the individuals are appointed to the Advisory Board, etc.

Chair Belfiglio noted this is a two step process and asked if a new Legislature came in and chose not to implement.

In response to Legislative Counsel Chapman query of what the Town Supervisors were unhappy with regarding the RRA, Legislator Wishnick speculated they want to ensure the RRA does not step on the Town's toes in terms of recycling, ensure reasonable tipping and pull charges, and that solid waste is properly disposed of in the long term. Legislator Bartels felt their concerns were largely financial.

Legislators discussed specific items to be included under the purview of the Advisory Board including the annual Solid Waste Management plan. Legislator Bartels and Legislative Counsel Chapman agreed a communication with the Town Supervisors was needed to determine the specifics of the Advisory Board purview.

Legislator Bartels felt the Advisory Board should meet at least bi-annually and then as needed.

Legislator Wishnick felt the Advisory Board should be appointed to one year terms. Legislator Bartels felt the Advisory Board appointment terms should be two years based on the election terms of the Town Supervisors.

Legislators discussed the ability to appoint members following an election year and the appointment process.

Legislative Counsel Chapman was requested to put together an outline.

Legislators and Legislative Counsel Chapman discussed the process to modify the Board without impacting the bond requirements.

Legislators discussed the County Legislator appointments to the Board, agreed to one year terms, and discussed the RRA Board terms for the non-Legislator appointments.

Chair Belfiglio noted at the next meeting on February 7, 2013 at 5:45 PM and requested the Committee discuss the draft document from Legislative Counsel Chapman, new business from Legislator Wishnick which is the ratifications of the RRA contract, and the recycling flow control resolution. Legislator Bartels requested time be allowed for Community Advocate Paul Fowler to discuss a proposed Animal Rights Local Law.

Adjournment

Motion Made By: Legislator Lopez

Motion Seconded By: Legislator Wawro

No. of Votes in Favor: 5

No. of Votes Against: 0

TIME: 8:57 PM.

Dated the 6th day of March, 2013

Krista Barringer, Deputy Clerk

Minutes Approved on: