

JUNE 12, 2006 MEETING OF THE EFFICIENCY, REFORM, AND
INTERGOVERNMENTAL AFFAIRS COMMITTEE OF THE ULSTER COUNTY
LEGISLATURE

The meeting convened at 6:00 p.m. Attending were Legislators and committee members Gary Bischoff (Chairman), Peter Liepmann, Brian Shapiro, Hector Rodriguez, Susan Cummings, Charles Busick, Tracey Bartels. Chairman Dave Donaldson and Majority Whip Rob Parete also attended for part of the meeting. Also attending were (a) Election Commissioners Tom Turco and John Parete, deputy commissioner Stuart Fraser of the Ulster County Board of Elections (BOE); (b) from the Department of Health and board, Dean Palen, Director, John Hall, President, E.J. MacFadden, Neil Lieblich, Marion Ostrander; (c) from the Charter Commission, Gerald Benjamin, Renee E Sachs, Marianne Collins, Cal Cunningham, and Louis M Klein; (d) representing the Mental Health Department and its board, Marshall Beckman, and Rose Jambrone; (e) representing the Environmental Maintenance Council, Rick Fritschler, Chair, and Dietrich Werner; and (f) Legislature Deputy Clerk Vic Work; (g) concerned citizens Allan Wickman, Bryan Goldberger and Joyce M. Hofman-Lieblich.

Agenda Attached.

Board of Elections Update

Chairman Bischoff asked Commissioners Turco and Parete to update the committee on BOE business and to report on anything new relating to of the implementation of the Help America Vote Act (HAVA) in Ulster County. As a preliminary matter, Turco asked for any questions on the proposed office expansion. No questions were forthcoming.

Turco informed the committee that new ADA requirements for polling places were received from the NY State BOE and that the Ulster County BOE must evaluate every site in the county for ADA compliance. He noted that there is an upcoming Commissioner's conference in June where the commissioners will be finding out more about the statewide database. Bischoff asked if the commissioners could take one car to the conference. Turco explained that the commissioners have different obligations at the conference since Turco will soon be president of the association and must attend Executive Committee meetings. Bischoff offered county cars to the commissioners for the three-day conference, and Vic Work agreed to provide them. Bischoff then asked about the space expansion and construction at the BOE. Turco reported that representatives of the lessor, Ulster Savings Bank, were coming to the BOE on Tuesday to discuss the renovations with a goal to determine what would be to the county's best advantage. Bischoff stated that the committee does not want to keep the commissioners from these important conferences for educational purposes, but only asks that expenses be kept to a minimum. Turco continued his report: the BOE has completed a polling site survey contacting all the sites and ironing out details regarding keys and rent structure. BOE is also now responsible for all election inspectors and will hire inspectors based on the submission of the town chairs, and the BOE will then try to recruit others as needed. The BOE is also working in the HAVA required statewide database. Over 800 duplicate registrations in Ulster County. After July, daily updates have to be provided to the state BOE.

Charter—Proposed Changes

1. Board of Health

After introductions of everyone present at the meeting, the committee started with the Board of Health. Bischoff gave the floor to Dean Palen, whose comments addressed Article V, Department of Health, in the Charter. Palen noted that Ulster County (UC) has a public health director like many counties in NY State and that that the current version of Article V gives the county executive the option to choose a public health director or commissioner of health. UC has not yet reached a population of 250,000, so it is appropriate for UC to have a public health director with a medical advisor. He stated his belief that this flexibility is important. Hall expressed concerns about the difference between a director with a medical consultant and a commissioner who is a commissioner. He also apprised the committee of the extensive experience of the board members and his long service on the board. Hall continued: During that time, 5 doctors have been administrators. Of 57 counties that have health dept, only 13 have a commissioner. A director with a medical consultant is approved by the state commissioner, which acts as a check and balance. He also stated his concern about the lack of candidates the last time a search was done for a commissioner and that a candidate who would be totally qualified would demand a salary of 150K or more and that it is difficult to find a man trained in administration and medicine. Our present system with a director and medical consultant has worked very well. Hall concluded: “If it ain’t broke, don’t fix it.”

Also concerned about section 5.04 was Dr. Lieblich who said that physicians are not good as administrators. Lieblich continued: In a small county, if you don’t have someone with experience in administration, assistant commissioners will be needed for each of the areas. In the end it would cost the county a lot more. Having a physician advise with the medical issues is what is needed in a health dept. A director will do the real administrative work and the engineering work. Section 5.03—originally 3 members of the Board of health were to be doctors. This was cut from 3 to 2, and this doesn’t make sense. Lieblich concluded by stating the board should also be independent since everyone is working for the same goals and the board should remain unfettered.

Bischoff asked the charter commission (CC) members to comment, noting that an earlier draft had the head of board of health be a licensed physician, which agreed with the recommendation of the committee passed at the May meeting.

Benjamin explained that, after a public hearing and comments from Palen, the CC determined it would be in the interest of UC to have an option for a physician or not. The CC was not as concerned about the substantive points that Dr. Lieblich addressed as much as it would appear the CC was targeting Palen, which is not the case. The concern about finding a physician that can be manager is serious but other organizations have been able to overcome this. He also responded to the fewer doctors on the board of health comment from Lieblich noting that it is a good idea for a member of the board of health to be practitioners in the health care profession but not physicians but a dentist or a nurse. Regarding the independence concern, this was a concern of the CC in a number of instances of boards. The executive direction of county government is being given to an elected official, the county executive, and for that reason the role of boards reflects a philosophy that county government should be organized under a single executive accountable to the voters.

Kline added that the initial concern in recommending a physician is to have public health expertise and that the taking away the policy making role of the board of health has been the same with all boards but the planning board. With the exception of the planning board, in all other areas, the legislature sets policy under the new charter.

Palen expressed concern about the public health law and the enforcement responsibility that the board of health will have to continue into the future

Bartells noted that she was outspoken at the last meeting regarding a requirement that the commissioner be a physician but this is in no way targeting Palen. She noted that it is to the benefit of the county to require that the commissioner be a physician. The issue of recruitment is not insurmountable. The pay figure of 150k might be what the county has to pay but this is an investment by UC in a more progressive approach. In looking at Dutchess County, they have a six-year term for commissioner. If we stay with the physician requirement, Bartells would like to consider a six-year term so that politics could be taken out of the decision.

Liepmann added his voice to the notion that we need a good administrator first and foremost and noted that finding a doctor who is a good administrator is difficult and that a more realistic figure for a salary for a physician-administrator is 250K. Liepmann prefers the draft of the charter that gives the county executive the choice.

Sachs asked Bartells what the salary is in Dutchess. Bartells responded that the range is \$120K to \$150K in the Hudson Valley.

Palen commented at length about his educational qualifications and his rise in the health department. It has been his honor to serve in the department and appreciates the chance to have this dialogue with the committee. He noted that he was instrumental in creating an organization of Health Department professionals from surrounding counties, and expressed his passion for public health and the cost effectiveness of his department and the professionalism of his department. Palen noted that the department fulfills its mission statement on a daily basis and most of this work is done in secret. He implored the committee to give the county executive a choice between a commissioner and a public health director. Palen hopes to have his position for the next ten years and asked the committee to reconsider its vote that there just be a commissioner who is a physician. Palen would like the county executive to have a choice between a commissioner and public health director.

Shapiro stated his support for the first draft of the charter and noted that this discussion is a very positive step—growing pains, as it were. He personally is trying to keep an open mind and approaching the charter with a vision for county government. If there is a disaster, there are procedures in place to address these situations. Having a doctor at the helm is something Shapiro sees as a positive thing rather than a liability. He thinks that we will be able to fill the position; it may be difficult but not out of the realm of possibility. The whole point of the CC is to make government more accountable. Shapiro still feels confident in his original vote.

Cummings was in favor of leaving the CC proposal as it was. Her feeling is that we should respect the changes made by the CC. She commends the CC for its great job. Also, in her many many years here at UC, Palen has always been responsive to her district whenever there was a problem in Ellenville or Wawarsing. She also appreciates Liepmanns' comments.

Hall expressed his opinion that most physicians that would apply for a job like this would be doctors that couldn't make it elsewhere and that the change allowing an administrator has made the department what it is today. Palen noted that there has never been a time when the department did not have access to a physician 24/7.

Lieblich stated that finding someone progressive and really qualified will not be found for the money allocated. Lieblich continued: it is a matter of how tax dollars are used in structuring different departments. If the health department becomes a physician only run department, it will cause the budget to explode and it will become a plum retirement position for someone who is a licensed physician who doesn't really know what needs to be done.

Bartells stated that she is more optimistic about recruiting a top-notch doctor as commissioner; this is especially true when you look at neighboring counties. Where doctors are also administrator and trained in both fields. Some of the progressive nature of what has happened in Dutchess is because a physician is at the helm, e.g., running their own vaccine trials. Bartel's opinion is not an attack in any way on the current commissioner.

Palen noted that surrounding counties have public health directors and not commissioners who are physicians and that what is going on in Dutchess is unique.

Wickman stated that most business hire a professional recruiter to fill top positions. In this case, we need to find someone who is doing the job we want done not someone who needs a job. Bartells asked: the statute that requires counties with 250 plus populations to have a physician, why does this requirement exist? There has to be some good reason why a physician is required in larger counties.

Palen concluded by saying that he is prepared to lead the organization now and for a long time to come.

Bischoff expressed a desire to give Palen and the Board a straight up or down vote on its request. It was noted that such a motion would have to be made by a committee member who voted for the motion that is in question. No such motion was forthcoming, so a motion to suspend rules made by Liepmann; and seconded by Cummings. The motion was defeated with the following No votes—Bartells, Rodriguez, Shapiro, and Donaldson.

Bartells asked the commission their opinion on 6-year term. Benjamin responded that the general position in the charter is that heads of department should serve at the pleasure of the executive, so four years is what the CC recommends. To make a term longer is to make the person independent of the executive; CC does not believe heads of departments should be independent.

Donaldson noted that Dutchess has a 6-year term and that the board's role will be changed as a more advisory role. A six year terms would be more advisable for public health but in this case only.

Bartells stated that she wants a six-year term to take politics out of it, especially for this one department to give the head more stability but not convinced enough to make it a motion to that effect.

Liepmann stated that he appreciates the confidence placed in physicians by the CC and continued that, if we appoint a physician, the chances of getting someone incompetent is much greater so he should be accountable.

Benjamin noted that with a six-year term, you run the risk of having a commissioner who is out of accord with a new elected commissioner. This builds politics into the situation rather than taking it out in that the risk to the department head that is at odds with the executive who has control over the department's budget would be substantial.

Bartells asked if "at the pleasure" means a term of four years but that the exec could remove a department head for poor performance at his or her discretion.

Benjamin answered that accountability is to the executive who is the appointing authority.

Donaldson asked how it is done in other counties who have physicians. Are they 4 or 6-year terms, and do they serve at the pleasure of the executive? Donaldson stated that this position is not the same as most other commissioners—different nature to this position dealing with public health and public safety. Palen offered to provide this information to the committee.

Regarding Section 5.03, Parete requested that the chairman of the public health committee of the legislature be an ex officio member of the board of health. Shapiro made a motion to such effect; Rodriguez seconded. Shapiro stated that this suggestion makes sense if the executive is going to make appointments to the board of health in the spirit of checks and balances to have someone from the legislative arm on the board. Klein pointed out that, if the board of health is to be advisory to the legislature, there should not be a member of the legislature on the board as a voting member since the board is advisory to the legislature.

Bartells asked Parete to explain his suggestion.

Parete said that, as a new member of the board of health, he is learning a great deal and that with the new way that the board of health is appointed by the executive, there is going to be a disconnect between the board and the legislature. Parete is concerned that the legislature will be reduced to a ceremonial role rather than a policy-making role. Now legislators are part time administrators rather than policymaking. As chairman of the health committee and new member of the board of health, he wants the legislature to have a voting rep on the board of health.

Liepmann asked why in 5.03 is there term limits on board of health? Why get rid of experience?

Benjamin explained that one of the principal overriding goals of the Charter is to make the legislature a more powerful policy making body. He continued: the legislature can access any information it needs from the executive branch. It does not need to have a legislator in an executive department. It is a violation of the separation of powers. Regarding turnover, there is a debate today in many arenas about term limits, that is, the balance between experience and ossification. CC made a judgment and came down on the side of term limits and what it found other jurisdictions to be doing. That doesn't mean that the judgment is totally correct but tried to strike a balance between turn over and experience.

Donaldson stated that he doesn't think a voting member on the board from the legislature is needed because such a member could be unduly influential on the board and could affect the advice given by the board.

Donaldson spoke in favor of term limits and said that ten years is enough.

Parete does not want to violate separation of power by having a member of the legislature sitting on an exec board and asked that Shapiro withdraw the motion, which he did. Leipmann made a motion to insert the word “consecutive” at end of Section 5.03; Cummings seconded. Bartells stated that ten years is enough service for any one. CC has no strong objection to the change, it created a different balance. The motion passed with the following Nos—Bartells and Shapiro.

Mental Health

Rose Jambrone, Chair of Board of UC Mental Health, stated that with her background as a social worker and as someone who has mental illness in her family, she typifies the make up on the board and the 3 subcommittees who are advocates for the mentally ill. She stated her belief that the political reality is that most people do not want to serve on advisory boards.

She then read a statement (copy attached).

Jambrone added further that there is a huge mental health movement in NY and the state has mandated that community members be on their subcommittees and that the Charter eviscerates the empowerment movement --what the mental health community has worked for many years by having the county executive appoint all members of boards.

Bischoff asked the CC to comment.

Benjamin explained that the Charter’s position on mental health is consistent with the overarching design of the charter and with every other department—policy is in the hands of the legislature; appointments in the hands of the executive.

The charter also requires that the board report to the public and the executive and the commissioner and the legislature, so there is an oversight role as well as an advisory role. He stated that he is troubled by notion that the best in the community in these issues would refuse to serve on advisory boards, which have influence but not power. Benjamin when on to explain that the CC was also very concerned about multiple bosses which leads to a shell game. This could occur anyway but the more fragmented the authority is the less direction. The diffusion of responsibility in county government is one of its major problems.

Klein stated that the CC is advisory and not its purpose to “eviscerate” anyone. Rene Sachs would like to think that the CC is doing as good a job as advisors as if they were being paid.

Shapiro noted that these are growing pains that result from fundamental and long term change. Shapiro’s first step into government was on an advisory board where he felt his opinion was always respected and that the boards would be listened to and respected. He continued that the issue of empowerment and representation for the consumer of mental health services is important and should be preserved. The charter does not preclude this.

Jambrone noted that it is state mandated that there be two consumer and two family members of consumers on each board.

Collins noted that these boards go back many years even to the board of supervisors and that the charter is a sea change and there has to be some pain when these long standing, extremely valuable structures are being changed. However, she stated that she does not believe the roles of the boards will be diminished.

Mental Health

Marshall Beckman, Director of Mental Health, stated that the board is made up of people who have personal interest in mental health. He continued: The mental health field is unique in that it has gone through enormous change in the last 50 years brought about by deinstitutionalization which was fought for by the families of the patients. These people have made great investments of time and work, and the issues are emotional as well. The desire is to have more balance—not to go completely in one direction by taking the community out of the policy decision by not being able to guide policy in action rather than just advice. He is also struggling what it would be like on a day-to-day basis to take advice from a board and to work with a legislature that is setting policy but the executive really makes policy on a day-to-day basis. This is what is experienced by directors like him on a day-to-day basis in counties where there is a county executive so it is not as simple as it looks on paper. Commissioner doesn't get to disagree with the executive because of threat of losing the job. The suggestions from the board are for balance. He also expressed concerned about gridlock that can be seen in other counties where there is war between the executive and the legislature. Beckman would like to see something built into the charter to give more balance. Jambrone added her concern that the change of executives will change the composition of the advisory boards. She explained that she is not speaking against county executive structure but is only expressing her concerns about maintaining continuity.

Liepmann asked what the current role of board is.

Jambrone answered that basically the board hires the director and presents an evaluation every year, all with the consent of the legislature. It has to do with policy and initiative. The board approves policy for everything that happens in the entire behavioral health field and acts as sounding board for consumers who are dissatisfied with systemic problems. For example, the Board forced Benedictine Hospital to reevaluate its approach to the psych ward and the waiting time in the emergency room. These are the kinds of things the board does.

Beckman noted that he board created a strategic plan for remaking the system—strategic vision project—looking at better ways to provide services less expensively. Ulster County leads the way in this and is taking the risk to change the system.

Bartells asked how this would be different with the charter model. In present and in the new model the director would have to come to the legislature. This does not pertain to the powers of the board.

Beckman answered that mental health likes having a legislator on its board which helped the board achieve a balance between the ideal and the real, what the board wanted and what the county could afford and puts the legislature much closer to policy. He is also concerned about how to walk line between the policy making body and the executive who has the power over his job, stating that an advisory board has no role in this system.

Bischoff noted that this system allows a good quality board to have influence on the legislature and the executive.

Jambrone pointed out the problems of everyone having different audiences; now the executive is added to the mix that had political interest because he is elected.

Busick has served on committee for 12 years and witnessed a lot of dedication and commitment from board members; and noted that a lot of research is done to support

their proposals. He observed that a board could serve no advisory purpose at all if the executive supports his commissioner and ignore the advice given by the board

Liepmann noted that the current structure of the Charter allows any change or initiative to come from the board then go to the legislature. The board has a non-power role in the charter.

Klein noted that the executive does not have policy power under the charter. If you take that away, the legislature only has veto power. The only function of the legislature is to set policy.

Cunningham stated his belief that the departments are missing the fact that they still set policy with the legislature. The department heads can still go and advocate with the legislature as well as the boards.

Liepmann noted that the mental health board would make recommendations to the legislature from knowledgeable people.

Rodriguez stated that it would be similar to criminal justice commission and the way it now operates with the legislature.

Benjamin stated that any minimally intelligent executive would consult with his commissioners and noted that the new structure does not allow the present degree of autonomy that commissioners now have in order to give the executive the power that he needs to have overall responsibility for the government. The degree that one activity is sheltered; the capacity to make choices and weigh one against the other is diminished.

Jambrone asked for someone to address the fact that now politics will be injected into the work of the boards.

Cunningham responded that all of life involves politics.

Shapiro noted that the charter is to be revisited in five years whereby things could be fixed in five years then every decade thereafter if problems arise.

Bischoff asked if there is some compromise could be made.

Jambrone suggested that the board be able to submit appointees to the executive like the planning board and would still like to have a part in making recommendations for the board and the subcommittees.

Bischoff pointed out that the ability to make recommendations is in the charter now. The first suggested change would nibble away at the executive's power and would diminish his accountability to the public.

Cunningham noted that where there is a county executive, the executive must reach out to the community, to the people involved to fill the boards, especially in mental health area where consumers and families of consumers are involved.

Liepmann made motion to adopt structure for mental health in the charter as it is.

Bartells asked why in description of community services board there is no mention of filling vacancies? Benjamin said he would look at it to see if there are parallel provisions for each department.

Rodriguez seconded. The motion passed with a unanimous yes

Environmental Management Council (EMC)

Rick Fritschler and Dietrich Werner raised concerns about Article 36 of the charter.

What is at issue is the language in the charter that does not reflect the assigned duties of the council currently assigned by state law and the legislature. The charter does not

recognize previous resolutions so the environmental regulator programs that the council currently manages would be lost because the charter does not address the real responsibility of the EMC.

Rodriguez asked the CC if this is true.

Benjamin's noted that the opposite in fact is true. Local laws continue if not specifically addressed by the charter.

The EMC presented specific language, which it urged the committee to adopt in place of the charter language (copy attached).

Benjamin noted that EMC did not present their changes to the CC in a timely manner and that the CC cannot study the proposal tonight.

Benjamin noted that it is not necessary to make any changes to the charter to keep the EMC's responsibilities and duties as they are today though it may be desirable to make such changes but they cannot be made without some study.

Bischoff noted that the committee has to make the decision whether to accept the proposed changes to the charter.

Bartells asked for the CC's help in evaluating the proposals presented.

Fritschler disagreed with Benjamin and noted that he submitted these proposals in a timely fashion to the environmental committee, which failed to submit the document to the CC.

Shapiro and Bartells disagreed with Fritschler.

Bartells asked Fritschler if the different interpretation of the charter explained tonight changes his concerns.

Benjamin said the CC would look at the proposal and give recommendations in ten days.

Liepmann made motion to accept CC's offer and table this proposal; Cummings seconded. The motion passed with a unanimous yes.

Bischoff called the committee's attention to the section where no legislator shall serve in another elected office that was changed at the last meeting at the suggestion of Rich Parete. He reported that the county attorney said it doesn't matter whether that provision is in or out; villages would not have to approve the charter separately if this provision was in the charter.

Bartells asked if CC had an amendment that would strike a middle ground. Benjamin said the commission would help with the language but the committee has to let the CC know what it wants.

Rodriguez explained that change was suggested so that people who served in other positions should be excluded from the legislature.

Benjamin noted that there are constraints in the law on this point already.

Bartells said that she opposes elected officials such as assessors being able to serve as legislatures.

Rodriguez make motion to strike last sentence of 2.03; Bischoff seconded. The motion was defeated on the following Nos - Bartels, Liepmann, Shapiro, Busick, and Cummings. Clarification was asked for by Liepmann whether the prohibitions that exist in other laws would continue. Benjamin answered yes.

Liepmann made the motion to insert "for which compensation is normally provided" after "elective public office" into Section 2.03; Bartels seconded. The motion was defeated on the following Nos—Rodriguez, Shapiro, Busick, Cummings, and Bartells.

Shapiro stated that he likes the language, as it now exists.

Bischoff noted that legislators should be able to serve on unpaid boards such as a board of fire commissioners; school and library boards.

CC has no opinion on the language.

The committee then took up the resolution to approve the Commissioner's attendance at the summer conference. Bischoff made motion for approval of conference with proviso that both use county cars; Bartells seconded. The motion was passed with a unanimous yes

Bischoff then brought up the Resolution on expanded space for BOE

Liepmann made motion to adopt the resolution on BOE space expansion; Bartells seconded, and the motion passed with a unanimous yes.

Two other items were deferred to the next meeting:

1. A Memo from Joe Roberti regarding a computer program to promote efficiency in government. Busick suggested that Roberti come to our next committee meeting to talk about his proposal outlined in the memo. Bischoff is to contact Roberti.

2. Employees' suggestions. Bischoff asked for volunteers to make recommendations to committee but none were forthcoming. Copies will be given to committee members to review for next meeting.

Shapiro made motion that committee deliver Shapiro letter to Administrative Services committee; Liepmann seconded; the motion passed with a unanimous yes.

The meeting was adjourned at 9 p.m. by unanimous consent.

Respectfully Submitted:
Stuart Fraser