

RULES, ENACTMENTS & INTERGOVERNMENTAL RELATIONS COMMITTEE
Held In Room 318
PUTNAM COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512

Members: Chairwoman Nacerino, Legislators Castellano & DiCarlo

Tuesday **6:30 P.M.** **June 18, 2013**

The meeting was called to order at 6:30 P.M. by Chairwoman Nacerino who requested that Legislator Castellano lead in the Pledge of Allegiance. Upon roll call, Legislators Castellano, DiCarlo, and Chairwoman Nacerino were present.

Chairwoman Nacerino made a motion to accept the Other Business for the meeting, seconded by Legislator DiCarlo. All in favor.

Item #3) Approval/Local Law to Amend Chapter 195 of the Putnam County Code Entitled "Precious Metals and Gems"

Chairwoman Nacerino thanked all of those who worked on the proposed amendment.

Legislator DiCarlo stated that communication is key and the local merchants should be informed regarding this change.

Chairwoman Nacerino stated that she spoke to President Bill Nulk of the Putnam County Chambers of Commerce and he stated that the Chamber is in support of this and so are his local merchants.

Legislator DiCarlo made a motion to pre-file the necessary resolution, seconded by Legislator Castellano. All in favor.

Item #4) Approval/Local Law to Amend Article 2, Section 2.02 of the Putnam County Charter Entitled "Term"

Chairwoman Nacerino invited County Attorney Jennifer Bumgarner forward to discuss this item. Chairwoman Nacerino introduced the changes that County Attorney Bumgarner drafted as a result of the last discussion of this item. Chairwoman Nacerino also invited Legislative Counsel Clement Van Ross to address his voiced concerns regarding the drafted changes.

Legislative Counsel Van Ross gave examples of how in each year of a term a Legislator could leave and a new Legislator could take their place and how those scenarios would be affected by the draft changes. He stated that the amendments County Attorney Bumgarner submitted tonight to the draft changes clarify all of his proposed scenarios.

County Attorney Bumgarner stated that none of these questions or concerns requires a legal opinion from her office but these are policy issues. She stated that the language

that was added says that if you have served any portion of a term that is considered serving a term.

Chairwoman Nacerino stated that rather than splitting hairs over appointed versus elected terms that she suggested any part of a term is a term.

Legislator Oliverio asked for clarification on the clause that says “[a]ny Legislator serving more than four terms or twelve years at the time of the adoption of this local law shall be permitted to run for one additional three year term.”

Legislator LoBue followed Legislator Oliverio’s question asking if this law was retroactive.

County Attorney Bumgarner stated this law is retroactive except with this clause which allows Legislator Oliverio to run for one additional term. She stated that it was her impression at the previous meeting that she would add language to ensure we were not in violation of our own law right now.

Legislator Oliverio asked if it would impact the current race.

Chairwoman Nacerino stated it would not because that is why we have an effective date of February 2014.

Legislator Gross stated that he believes this shows professional courtesy and makes sense.

Legislator LoBue asked if in her tenure she would be able to run again after her next run.

County Attorney Bumgarner stated no.

Legislator Albano stated he is not in favor of term limits because he believes that people should be able to vote for who they want and not be forced to have to pick someone else because of the way the law is written.

Chairwoman Nacerino stated that Legislator Albano would be able to make those comments again on the floor of the Full Legislative Meeting. She stated there are two sides to the argument.

Legislator Albano stated that people should have the choice and not be forced. He asked if we are allowed to bring this up again and again.

Chairwoman Nacerino stated she believes it can be brought up at any time.

Legislator LoBue asked County Attorney Bumgarner if in the form it is in now if the law is legally enforceable.

County Attorney Bumgarner stated that the previous law was structurally sound it was just the way it was passed was not correct. She stated there was nothing wrong with the law itself. She stated that the proposed amended law is structurally sound and to be placed into law would require a supermajority vote.

Legislator LoBue asked about the tolling resolution.

County Attorney Bumgarner stated that that resolution was never adopted.

Legislator Castellano asked if there is another Legislator on the effective date that has four terms already can that Legislator run for yet another term.

County Attorney Bumgarner stated that that clause specifically states the date of adoption of the law not the effective date of the law and therefore that clause only applies to Legislator Oliverio.

Chairwoman Nacerino made a motion to pre-file the resolution as amended, seconded by Legislator DiCarlo. All in favor.

- Item #5) Correspondence/Chairman of the Legislature Othmer**
- Item #5a) Discussion/Amend Legislative Manual – Section V**
- Item #5b) Discussion/Local Law to Amend Section 3.02 of the Putnam County Charter**

Chairman of the Legislature Othmer stated that the Local Law to Amend Section 3.02 of the Putnam County Charter is due to the County Executive's office in years past and once with the new County Executive where Department Heads were requested at meetings and did not appear. This change would require the County Executive's office to send the Department Head to a meeting or a qualified representative from that Department's office.

Chairman of the Legislature Othmer stated that the item to amend Legislative Manual – Section V stated that he is the biggest offender of this and he wanted to put it in writing that all correspondence to the County Executive on any topic be funneled through the Clerk of the Legislature.

Chairwoman Nacerino asked if this would inhibit the Legislators ability to do their job effectively.

Chairman of the Legislature Othmer stated he did not think so because a lot of the time he will try to call the County Executive's office about something but the Clerk of the Legislature will inform him that a memorandum was sent down on that topic by another Legislator. He said it also happens with requests for legal opinions of the Law Department.

Legislator LoBue asked to break up the two items for clarity.

The Committee agreed.

Item #5a) Discussion/Amend Legislative Manual – Section V

Legislator LoBue stated that she is against this because each Legislator represents their districts individually and each Legislator should be able to contact offices directly.

Legislator Oliverio asked Legislative Counsel Van Ross if this prevented Legislators from contacting Department Heads directly. For instance, if he wanted to know when a bridge would be completed could he call Commissioner of Highways & Facilities Fred Pena and ask that.

Chairman of the Legislature Othmer stated that is not his intent with this amendment. He stated that this has to do with official correspondence not phone calls.

Legislator Oliverio stated he understands Chairman of the Legislature Othmer's intent but wants clarification from counsel on the way it is written.

Legislator LoBue stated that under this amendment a Legislator could be blocked from sending official correspondence and if that Legislator is not the Chair of a Committee then it would be very difficult for said Legislator to send any official correspondence under this amendment. She further stated that said Legislator represents constituents just like every other Legislator.

Legislator Oliverio asked for clarification that this reads that any Legislator still has the ability to send official correspondence regarding any topic but that this says that correspondence must go through the Clerk of the Legislature's office.

Chairman of the Legislature Othmer stated that is correct and is his intent.

Legislator Oliverio stated he wanted clarification that that is the way it actually reads because that is not how he and Legislator LoBue are reading it as is.

Chairman of the Legislature Othmer stated that it is an organizational tool because if letters go to the County Executive's office regarding the same topic from five different legislators the County Executive's office has to dig to find letters legislators have sent them.

Chairwoman Nacerino read the amendment in the record.

"... 'Any matters of interest to the Legislature on a Committee of the Legislature shall be channeled through the Clerk's office to the County Executive. After communications have passed through the appropriate channels, direct meetings between members of the Legislature and members of the Executive Branch shall be in order'."

Chairman of the Legislature Othmer stated that he violated this when he formed the task force for the SPO Program and the Protective Meeting.

Legislator LoBue stated that is not what Chairman of the Legislature Othmer violated. She stated what he violated the Charter by forming a task force without the six vote permission of the Legislature.

Chairman of the Legislature Othmer stated that is not correct.

Legislator LoBue asked Legislative Counsel Van Ross if she is correct.

Legislator Oliverio asked Legislative Counsel Van Ross for clarification on the amendment. He stated that this amendment reads that official correspondence funnels through the Clerk of the Legislature's office to the County Executive only.

Chairman of the Legislature Othmer stated he is just asking for official correspondence to go to the County Executive's office from our Clerk's office in an orderly fashion because the correspondence we send to the County Executive's office is hard for their office to dig up.

Legislator Albano stated funneling correspondence is the right thing to do.

Chairwoman Nacerino stated that in the six months she has been here she sees that this is already done. She stated that there is not a memorandum she sends out that is not discussed with the Clerk of the Legislature and her staff. She believes it is already channeled through our office. She is worried that wording inhibits Legislators from doing their job to the best of their ability.

Chairman of the Legislature Othmer asked if we could put that language in there.

Legislator Gross asked if he needed permission from the County Executive's office to talk to the Department of Social Services. He stated that is his concern.

Chairman of the Legislature Othmer stated no.

Legislator DiCarlo stated that the proposed wording implies that it is not in order now.

Legislator LoBue stated she is not in favor of it. She stated there is not a problem. She stated if the County Executive's office is not organized that is not the Legislature's concern to fix.

Chairman of the Legislature Othmer stated that is not the point. He reiterated his previous example.

Legislator DiCarlo stated that he understands the intent but each Legislator has the right to write to anyone, which we are currently able to do.

Chairman of the Legislature Othmer stated that everyone can write a hundred letters all he is saying is that it go through the Clerk of the Legislature's office.

Chairwoman Nacerino stated in that case it would not alleviate the redundancy that Chairman of the Legislature Othmer is speaking to.

County Attorney Bumgarner stated that as a Department Head it would help the issue of individuals calling different people in a department to work on the same topic concurrently without the other person in the department knowing their coworker is working on the same thing already. It can make it much more efficient. She encouraged anyone to call anyone in her office but initially it would be helpful to receive the request via memorandum. She stated that this would better assist her to manage her department's work load effectively.

Chairwoman Nacerino stated that she believes that any memorandums sent to the Law Department are addressed to County Attorney Bumgarner. Chairwoman Nacerino does not believe that this proposed change would alleviate that issue that still might occur in the future. She is concerned that this proposed change will inhibit Legislators abilities to approach matters that we find important.

Chairman of the Legislature Othmer stated that this happens naturally because the Clerk of the Legislature produces and sends out the memorandums in collaboration with Legislators anyway. He stated that this is just a matter of codifying it.

Chairwoman Nacerino stated that is restricting because for example, if she wants to reiterate or have an opposite viewpoint of Legislator LoBue's previously sent memorandum then she cannot.

Chairman of the Legislature Othmer stated that is not correct. He stated that the Clerk of the Legislature will inform a Legislator of previously sent correspondence regarding the same topic.

Chairwoman Nacerino stated that is not what his previous example was.

Chairman of the Legislature Othmer stated that a lot of times the Clerk's office will inform him that a memorandum was already sent.

Legislator LoBue stated that is his discretion.

Legislator DiCarlo stated to carbon copy everyone on everything then so there is awareness.

Chairman of the Legislature Othmer stated that he is not always at his computer.

Legislator LoBue stated that the Clerk already informs us if someone has already sent a letter. Legislator LoBue stated that she is a "no" vote on this because any Legislator should be able to write any correspondence on a topic regardless of what has been sent previously from other Legislators.

Chairman of the Legislature Othmer stated that is not what this proposed change is. He stated every Legislator can write what they want. He stated that it must go through the Clerk and not anyone else in the staff.

Legislator LoBue stated that she does not believe that the Chairman of the Legislature Othmer understands this change. She feels this is redundant.

Chairman of the Legislature Othmer asked Chairwoman Nacerino to remove the item from the agenda.

Chairwoman Nacerino stated she would like to carry on the discussion.

Legislator Oliverio stated he likes the concept of the proposed change but through the Charter we interpret the Legislative Manual. He stated he wants to have the freedom to have a dialogue with anyone and according to this change he would then have to go through the County Executive and would not be free to speak directly to someone. He gave the example of if every time he wanted to speak with a Department Head he had to go through the County Executive then that puts up a barrier.

Chairman of the Legislature Othmer stated that is not correct.

Legislator Albano stated that he thinks they already do this. He believes that this is just formalizing what we already do and sharpening it up. He does not believe it is restricting he believes it is organizational. He stated that he sees what everyone is doing because the Clerk of the Legislature's office sends everything out.

Chairwoman Nacerino stated that everything is stamped in the office, everything is emailed to the Legislators, and we are carbon copied on everything. She was informed when she began her term that we channel requests of Department Heads through the County Executive that is the courtesy that we follow through. She stated that if we are contacting an Elected Official we do not need to go through the County Executive. She stated that is the procedure and she has not experienced any gaps in that. She stated that she feels strongly that Legislators should have the ability to do our job on behalf of our constituents.

Legislator DiCarlo asked Clerk of the Legislature Diane Schonfeld how this could help her.

Clerk of the Legislature Schonfeld stated that she is not sure what Chairman of the Legislature Othmer means in regards to the Protective Meeting.

Chairman of the Legislature Othmer stated that he is just trying to be organized.

Clerk of the Legislature Schonfeld stated that she does not believe it would change anything.

Legislator Oliverio stated that the sentence that troubles him is, “[a]ny matters of interest to the Legislature on a Committee of the Legislature shall be channeled through the Clerk’s office to the County Executive.” He stated that how he interprets that is any issue that comes before the Legislature has to go through the County Executive. He believes that is how it reads.

Chairman of the Legislature Othmer stated that is not his intent. He stated his intent is that any matters to the County Executive get channeled through Clerk of the Legislature Schonfeld to keep things organized.

Chairwoman Nacerino stated that she thinks we are organized.

Legislator LoBue stated that she thinks we are organized as well.

Chairwoman Nacerino stated that the communication in the Clerk of the Legislature’s Office is clear and open. She stated that each staff member is aware of what each other are working on.

Legislator Castellano stated that we already do this. He stated this is the process that we already take.

Chairwoman Nacerino stated that she agreed. She stated that we are open and transparent and carbon copy each other on everything. She further stated that everything is a public record.

Legislator LoBue stated that we have an unbelievable staff. She stated that if any member of the staff knows of something that is going on in a Legislative District they make sure that Legislator is aware of it.

Item #5b) Discussion/Local Law to Amend Section 3.02 of the Putnam County Charter

Chairwoman Nacerino read the proposed Local Law to Amend Section 3.02 of the Putnam County Charter.

Chairman of the Legislature Othmer stated that when Legislators ask for Department Heads to attend meetings and they do not come now there will be a consequence.

Chairwoman Nacerino asked if that was the process we were following.

Chairman of the Legislature Othmer stated yes it is but it’s not enforceable because it is not in the Charter.

Legislator DiCarlo asked what the consequence would be.

County Attorney Bumgarner stated you could actually bring an Article 78.

Legislator LoBue stated she will support this.

Chairwoman Nacerino made a motion to pre-file the necessary resolution for Item #5b, seconded by Legislator DiCarlo. All in favor.

There being no further business, at 7:14 P.M., Chairwoman Nacerino made a motion to adjourn, seconded by Legislator DiCarlo. All in favor.

Respectfully submitted by Krista M. Butler, Administrative Assistant.