

Minutes

Public Safety Committee

March 21, 2018, 4:15 pm, Room 331

Gerace Office Building, Mayville, NY

Members Present: Niebel, Whitford, Pavlock, Vanstrom

Members Absent: Bankoski

Others: Tampio, Ames, Sheriff Gerace, Cresanti, Dennison, Abdella, Chagnon, Harvey, Kimbal, Knight, Griffith, Volpe, Crow, Borrello, Hemmer, O'Connell

Chairman Niebel called the meeting to order at 4:15 p.m.

Approval of Minutes (2/21/18)

MOVED by Legislator Whitford, SECONDED by Legislator Pavlock

Unanimously Carried

Privilege of the Floor

Mr. Kimbal: My name is Richard Kimbal. I'm a dairy farmer here in Dewittville and I'm also a President of Chautauqua County Farm Bureau. I would like to address the Animal Cruelty Registry. I've read it. Some of the concerns are that it's well-intentioned, but it's another layer of regulations, which we are not all in favor of. We have questions. It says farmers are exempt but it doesn't define farmers. It defines farm animals a lot better than it does a farmer. So, it says selling farm animals to farmers- but what happens when I sell a bull calf to a neighbor that isn't a farmer? Do I have to check the registry? Do I have to- I am responsible to do that? So that's our concerns. Even when some of the local feed mills have some of their chick sales in the spring, are they going to be required to check out a person before they can sell their chicks or ducks or whatever they sell in the spring? That's our concern is that it seems kind of ambiguous and doesn't define farmer well enough or who the farmer can sell to without having to check a registry. So, at this point, we are opposed to it on those grounds. However, it is well intentioned and by no means do we approve of animal abuse or cruelty in any situation. So I want that perfectly clear.

Chairman Niebel: Ok, let's look at section 5. Section 5-because part of my district is Arkwright and Villenova and I have a lot of dairy farmers in my district and a couple of them did contact me about this. So we went over this in some detail. One of the questions that I got was what happens if you go to auction with your cows- no it's my understanding that you go to auction-its farm animals- you don't have to- you're selling to other farmers, basically, for the most part. Ok, so you wouldn't have to- you would be exempt. You wouldn't have to check the

animal registry. The intent of this is that there has been an awful lot of abuse of animals, cats, dogs and etc. This resolution- this local law, address that. It's not meant to hinder farmers or the sale of farm animals.

Mr. Kimbal: I generally get that gist from it, but any ambiguity in any law is just not acceptable. It has to be more defined, more clear in our opinion.

Chairman Niebel: Ok Dick, if you can stick around for a while we are going to have the County Attorney up here and maybe he can explain it a little bit more. But look, your concerns are well founded. Thank you for bringing that to our attention. Ok, anybody else as far as privilege of the floor?

Mr. Knight: Hi, John Knight, also a dairy farmer in Chautauqua County with the Chautauqua County Farm Bureau Board.

Chairman Niebel: Ok John, where are you from?

Mr. Knight: Ellicott, Townline Road.

Chairman Niebel: John, what is your concern?

Mr. Knight: Just to reiterate what Dick said, I just have concerns that- I just want you guys to do your due diligence and make sure there are no unintended consequences for the Dairy Industry. In these days, there are people that think that milking dairy cows is abusive. I understand they have to be convicted but ten years from now a judge might agree with them. So you just have to be careful when you create a law and its lasting effects-

Chairman Niebel: As far as farm animals and farmers. I too am a farmer, but only a grape farmer. Nobody abuses grapes- I guess I shouldn't say that, we turn it into wine- I guess we abuse grapes. You too John, if you could, we are going to have Steve Abdella up here later and maybe he could address your specific concerns. But this is not intended by any means to hurt farmers and auctions and stuff like that.

Mr. Knight: We understand that, we just- we don't want any consequences.

Chairman Niebel: Ok, thank you.

Clerk Tampio: Mr. Chairman, I want to introduce to the Committee, Olivia Ames. She's our new Committee Secretary. She's observing and learning this month, so next month she'll be sitting at the table with you as Committee Secretary.

Chairman Niebel: Ok, well thank you. Welcome aboard. Anybody else for privilege of the floor? We will close privilege of the floor and go on to the agenda.

Proposed Local Law Intro 4-18- A Local Law Authorizing the Creation of an Animal Abuse Registry

Sheriff Gerace: I had been in discussion with Sheriff's across the state and I think there are thirteen counties now, plus the four boroughs of New York City that have an Animal Abuse Registry in play- a local law. So, I had approached the Law Department and eventually the County Executive about looking at a similar law here at Chautauqua County. I'm very happy that this conversation comes up because I don't think that was ever the intent in any way. So if language adjustments need to be made to make sure that it doesn't create a problem that was not intended, I would absolutely support that kind of language change.

Chairman Niebel: Sheriff, we have got some language there as I read to the gentleman that appeared before the privilege of the floor, but, I mean we can talk to Steve more, but perhaps clarification might be needed.

Sheriff Gerace: In doing a little bit of research and talking to other Sheriff's about it, they have had no negatives. There is no grandfather clause, so this would be going forward from the time the local law was or is adopted. So anybody that was arrested and convicted for certain sections of the Ag and Market Law, their names would appear on the registry. Those that are selling or giving animals to people that are convicted animal abusers have to check the registry and not do that. Of course those that have been convicted would not be able to possess or purchase animals going forward.

Chairman Niebel: Sheriff, as far as the registry, how exactly- have you had a chance to think about that? How exactly is that going to work? Website?

Sheriff Gerace: It's simple. The Sheriff's that do it, do it on their website. There are a couple different variations. Niagara has a list and as far as building and maintaining its very low maintenance. It's a list of names that have to be provided by the Prosecutor to the Sheriff and then, in Niagara, they have the list of the names and mugshots. Others, just you call up the web registry and it shows you the people convicted with their mugshots and their information. Then if you go to New York City, they do it a little differently. It's not public, it's done through registration and only people that are- for instance, the shelters have the ability to look at the registry but the general public doesn't. It's done different ways. Most of it is strictly a web connection with those convicted individuals pictures appearing. So I did make a list of the- this comes off of the New York State Humane Association website and they have a list of the counties that currently have laws and the ones that do are highlighted and in bold face. The common method is just to have their names appear and their pictures. For instance, here is Ulster County and this is Rockland County. Those are all four people on their registry,

Chairman Niebel: How many animal abuse cases do you- are we talking about?

Sheriff Gerace: I thought you might ask that. Here is the data that we could retrieve. Now these are not convictions, these are arrests. The convictions, my guess would be somewhat lower. That's by ORI or law enforcement agency. We looked at a five year history- look back. Now this wouldn't apply- none of these- these are arrests, convictions would be much lower.

Legislator Pavlock: I have a question Mr. Chairman. If I was to sell an animal- say I had a pig and it had 35 piglets, and I was to accidentally sell it to one of these people, whether I look or didn't look, and then something arises about how they got the pig. What are the ramifications towards me?

Sheriff Gerace: Well, I'll let the official lawyer answer that question. I would believe that qualifies as a farm animal and wouldn't apply at all.

Legislator Pavlock: Even if I'm not a farmer?

Sheriff Gerace: Until the question was raised today, that hadn't-

Legislator Pavlock: Those are the type of questions that someone is going to have. Even if it was someone's kitten. If someone's cat has 25 kittens and I didn't check that registry and this person is caught doing something with these animals the question is where did you get them?

Mr. Abdella: Well I think at this point, Section 5 the last sentence, its stating that- Section 5 is the section that makes the prohibition on making a transfer to someone who is an animal abuse offender. It says "this sectional shall not apply to Farm Animals for farmers, nor to Service Animals for people with disabilities." I guess, one question raised just from the discussion earlier would be, at this point it looks like if the exemption is for farm animals for farmers- and the gentleman who spoke asking that perhaps there needs to be a specific definition of what is a farmer for purposes of this law. One alternative would be to simply state that the sale of farm animals are not- the transfer of farm animals is not covered by this law period, regardless of whether it's a farmer transferring the farm animal, or anybody else. That would be one way, if you were comfortable with the definition of farm animal. This law was based on-actually it was Niagara County's local law. This is intended to apply to farm animals being transferred by farmers but I think again, part of what was being asked was-what if the person transferring animals is in the business of selling animals but may not be considered a farmer per se. Part of what we might need to hone in on is, do we want any transfer of farm animals exempt, regardless of whether the person transferring it is a farmer or not. You would want to cover whether they have to be full time or just a part time operation that qualifies.

Chairman Niebel: Do you think it would be better to just limit it to this section shall not apply to farm animals? So we don't have to get into the definition of farmers?

Legislator Pavlock: I have an example. About five years ago some people in the town of Charlotte had ten beef cows. They couldn't feed them any longer. They didn't have enough money to buy hay or provide food. It was on the Buffalo News that they went in and took those animals away. So there is an example where it could be abuse to a farm animal by a non-farmer. I suppose it could be a hobby farmer.

County Executive Borrello: I would like to take a step back here a bit because I think we are missing a major point here. How many farmers have been convicted of animal abuse in Chautauqua County? There is a very high hurdle to get over. Part of the reason we worked on this together is because we saw this- some rather outrageous examples recently in Chautauqua

County. Even with those, we had a situation recently with people that bought a home in Jamestown from another county and before they even closed on the home, they were on the property poisoning cats to kill them, to get rid of them. Despite the fact that we had two police agencies working on this, despite the fact that we animal rights advocates trying to collect as much evidence as possible, we could not get together enough to even create an arrest. So if you're talking about some that has been convicted- convicted of animal abuse, chances are this person is already someone who has done some rather egregious acts to get to that point.

Chairman Niebel: Chances are it's not a farmer.

County Executive Borrello: It's not a farmer. So I guess I want to ensure the folks in the farming community or anywhere else that if you have been convicted of animal abuse, chances are that you deserve to be on this registry. And, you're probably someone that is a chronic – and finally got caught to be quite honest. (*Inaudible*) had enough evidence to actually get a conviction. So this is not about a farmer who has an accidental death of a pig. This is about people who have been egregiously violating the law to the point where we are able to get a conviction. Quite frankly, what had been done to those cats- if that had been done to human beings, there is more than enough evidence to bring an arrest and a conviction, but not enough to achieve a hurdle that has been set for the Ag and Markets Law or in our animal abuse laws. So the hurdle is already high to begin with, just to get an arrest and to- but to get to the point of prosecution, is a very hard hurdle to (*inaudible*) with. So I think- I guess I don't want to split hairs here because I don't think we are- if you want to add an amendment, I'm fine with that, I'm just saying that lets remember that- has there ever been a farmer convicted of animal abuse in Chautauqua County? I'm going to guess, probably not. So, I don't want to dilute the value of this law. If people that are not farmers decide to go out and get ten head of cattle and put them in their back yard and not be able to feed those animals, there should be consequences to that. I would think that any responsible person who makes their living off of farming would want those people to be held accountable.

Chairman Niebel: Ok, Mr. County Executive, we may amend this just a little bit as far as the farm animals for farmers. Dick and John what are your thoughts now? Would you like us to consider a change in perhaps the section that says "farm animals for farmers?"

Vice Chair Vanstrom: It's the exchange part that they are worried about. If I own pigs and I want to sell one to my neighbor and then my neighbor is derelict, I don't want to be held responsible because he couldn't feed the pig and I didn't know that he couldn't feed the pig-

County Executive Borrello: Well you wouldn't be responsible if they hadn't previously been convicted. If they are not on the list- if the person you transfer to is not on the list to begin with, then there is no responsibility.

Vice Chair Vanstrom: But it's multifaceted. I think their concerns are multifaceted. They are worried about the exchange of an animal and then not knowing if someone is on the registry.

County Executive Borrello: But you can check the registry.

Vice Chair Vanstrom: I know, but what if there are multiple people living in a house out in Stockton, and they aren't related, but they are living in the same house. That's what they are worried about, I believe.

County Executive Borrello: We can do whatever we can to protect the farming community, but do we want to go to the point where it could actually impact some of the- it could potentially- I mean, there are people that keep pigs as pets that maybe shouldn't. I would think that's something that you wouldn't want to see either.

Chairman Niebel: Look, we will discuss that among the Committee. We might amend this just a tad, but the intent is to- it's well intended. This is-

Mr. Kimbal: We can see it's well-intended too.

Chairman Niebel: Ok, Dick. We have heard from the Sheriff how the registry is going to actually work. Oh, Steve, there is one other thing. There might be a typo-

County Executive Borrello: Mr. Chairman, I have to go to another meeting. If you need me for something, I'll be down the hall.

Chairman Niebel: Steve, under Section 3, "any currently or previously animal registered abuse officer," I'm thinking that should say "offender." About two thirds of the way down.

Mr. Abdella: I agree. Yes.

Chairman Niebel: Do you think we can treat that as a typo?

Mr. Abdella: Yes.

Chairman Niebel: Ok folks, under Section 3 about two thirds of the way down it says, "officer convicted" and it should be, "offender convicted." We will treat that as a typo. Ok, what is your consensus? What would you like to do?

Vice Chair Vanstrom: I feel kind of- I'm not sure about this one section where it's mentioning shelters.

Chairman Niebel: What section is that?

Vice Chair Vanstrom: Section 6 part C. It's talking about a \$5,000 fine. Now, I know the humane society out on Strunk Road, they have a lot of volunteers. I don't know who is manning the front desk or in charge of the adoptions, so I mean, I think \$5,000 fine on an organization that is established to protect animals, I think it's kind of contradictory. I mean, you're running a volunteer operation. So now the organization that runs on mostly donations and almost no money and a couple grants is going to possibly- if some transaction happened-

Chairman Niebel: No. Lisa, I understand. Would you like to see that lowered?

Vice Chair Vanstrom: I don't know what the right thing to do is.

Chairman Niebel: Ok, the \$5,000. I don't really have a problem with that because I think that any animal abuse shelter or pet seller- they are going to check the registry.

Vice Chair Vanstrom: Well, you would hope that they do. But what if some person comes in there and tries to- who knows what they are going to do.

Sheriff Gerace: If you look at those that have been in place for a while, they still have a very few people on them. So, the Humane Societies will- so they will probably keep a list posted at their-

Vice Chair Vanstrom: Well I would hope so, but it's a volunteer organization.

Sheriff Gerace: I don't think that the intent was ever to be pivoted towards those that-making an error in- and still haven't-

Mr. Abdella: This is a not to exceed amount. You could lower the not to exceed amount but depending on the circumstances, the town justice or judge is not likely to impose that maximum fine.

Legislator Pavlock: Unless it's egregious.

Vice Chair Vanstrom: Well it happened in the Town of Ellicott court. So, I'm a little extra worried about it.

Legislator Pavlock: Well there has to be some type of ramification if they do.

Vice Chair Vanstrom: Ok, I have shared my thoughts on it.

Chairman Niebel: Ok, anybody else? Any further discussion? Any questions for the Sheriff or the County Attorney? What would you like to do on this resolution- or proposed resolution?

Mr. Abdella: Mr. Chairman, I will say, I do want to- not to stop you from forwarding this on, but I really want to take just a little time to just think about the comments made today and whether I might recommend any adjustment to that language. I'm not ready to just off the cuff suggest amending language right at this moment, but I will let you know if I think I will recommend any changes.

Chairman Niebel: Mr. Abdella, in order to review it would you like us to consider tabling it?

Vice Chair Vanstrom: I would feel comfortable with that.

Legislator Whitford: I don't see that there is a sense of urgency this month.

Vice Chair Vanstrom: We can work on it and fine tune it.

Legislator Whitford: I would propose that we table it.

Chairman Niebel: Are you ok with this?

Mr. Abdella: It is available for action. It was emailed to all Legislators so it will appear on your agenda next week, regardless of the Committees action.

Chairman Niebel: But we could table it next week.

Mr. Abdella: Yes. You could table it next week. I think if the Committee wants to table it, then you certainly can do that and then the full Legislature might do the same thing.

Chairman Niebel: Sheriff, are you Ok with that?

Sheriff Gerace: Yes, that's fine.

Chairman Niebel: Motion to table to that?

Legislator Whitford: I'll motion.

Vice Chair Vanstrom: I'll second that.

Chairman Niebel: Ok, it has been moved to table. Those in favor, aye? Opposed?

Unanimously Carried

Chairman Niebel: Ok, Joe, why don't you stay? We will take the last resolution about the Forestville Resource Officer.

Proposed Resolution- Authorize Agreement with Forestville Central School District for School Resource Officer

Sheriff Gerace: Mr. Chairman, the Forestville Central School had contacted me and their board had unanimously passed a resolution authorizing a contract with us to provide a SRO for Forestville School. So what you have before you is a resolution giving us the authority to move ahead with that contract. The rate you'll notice was different than the one you passed for Silver Creek and that's because it's prorated based on the start time.

Chairman Niebel: Sheriff its revenue neutral, basically?

Sheriff Gerace: It is.

Chairman Niebel: Whatever it costs us, they are going to reimburse us for that?

Sheriff Gerace: Correct. It's as revenue neutral as we can make it.

Chairman Niebel: Any questions for the Sheriff?

Legislator Pavlock: Obviously you have coverage for this. What if in the next three months six more schools want to add an officer?

Sheriff Gerace: Well this- that's a great question. What we'll do, once this- assuming it's approved- is we will backfill. We will hire someone in place of this person because we cannot do our jobs day to day with the number of schools that could ask for SRO's and several more have at least inquired. So, it's a very real possibility in this day and age.

Chairman Niebel: Ok, that's a good idea. Any other questions for the Sheriff? Those in favor? Aye? Opposed?

Unanimously Carried

Proposed Resolution – Fiscal Year 2017 Hazardous Materials Emergency Preparedness (HMEP) Grant Program

Mr. Griffith: Good afternoon. This grant is an annual grant that we get for hazardous material. It's cash in- cash out type of grant. We'd offset by the Federal Aid from Homeland Security used in our contractual account. Money in, money is spent out.

Chairman Niebel: Ok. Again, revenue neutral.

Mr. Griffith: Revenue neutral, yes Sir.

Chairman Niebel: Any further discussion? Those in favor? Aye? Opposed?

Unanimously Carried

Proposed Resolution – NYS DHSES Fire Suppression Foam Equipment

Mr. Griffith: New York State Department of Homeland Security and Emergency Services has several foam trailers. These are large trailers full of firefighting foam. They placed them in different places around the state. We have one in this County which right now is housed at the Emergency Operations Center on Academy Street. I believe it's going to be moved to the Murphey Training Center to be closer to the rail yards and the rail lines in Dunkirk. Specifically, it's put in to fight to the fires involved with crude oil tankers, as we saw back in the early 2010-2011. We are very fortunate to have it here. We actually did use this trailer for the train accident in Ripley. Then the state of New York comes through and they refill it and restock it. This is an agreement for us to have it and an agreement for us to store it with the state of New York. There is no cost to the County and no reimbursement back to the state.

Chairman Niebel: Ok. John, you were talking about moving it to the City of Dunkirk. Where is it now?

Mr. Griffith: It's right here on Academy Street. We are thinking about moving it to the Murphey Training Center over in Dunkirk, on Brigham Road.

Chairman Niebel: Ok, any questions for John? Those in favor? Aye? Opposed?

Unanimously Carried

Proposed Resolution – Amend 2017 Budget for Year End Reconciliations – Additional Adjustments

Mrs. Dennison: We are continuing to make some minor adjustments to the 2017 financial results. So this is a resolution in addition to the ones that you considered in February. There were some changes to the results after the February meeting. The changes include an increase in expense for Assigned Counsel. There were some additional invoices that came in that pertained to 2017. So the appropriation budget needs to be increased. Then, with regard to the Sheriff, there are a number of items in the Sheriff's organization- personal services, some contractual costs, some DWI costs. We did do a more thorough review of some of the Sheriff's financial results. We had a couple of questions we wanted to dig into after the February meeting. The main change was that we found that the Stop DWI payments to other municipalities were incorrectly booked into 18. So those are expenses in the third and fourth quarter of 2017. We get the money in from the State for Stop DWI fines and then some of that is paid out- 40% is paid out to local police departments. So that payment was incorrect and was has been corrected. So, there was an increase in 2017 expenses for that item.

Chairman Niebel: Kathleen, that's the 3315.4?

Mrs. Dennison: Yes, \$27,886. The other larger item is the last one for contractual costs in the Sanitary Sewers area. Again, the final review found that an increase to the expense in that category and that was covered by a reduction in the equipment budget for the Sanitary Sewers. I should comment that the changes are not completely self-balanced within each organization. The Assigned Counsel cost that department just has one expense, so if it goes over it doesn't have anywhere else to balance from. The Sheriff cost, especially the DWI costs- we had already done a balancing of his budget. So those items, we are drawing from funds- surplus funds in the community, the College Tuition Department and also in the State Training School from HHS. There was also a small increase in jail communication revenue in the jail. We found the month of December- the December actuals were not properly accrued so we have some additional revenue on that item that will defray some of the additional costs and just a small minor adjustment for (*inaudible*) equipment in the Sheriff's organization.

Chairman Niebel: Any questions of Kathleen? Any further discussion? Those in favor? Aye? Opposed? Thank you, Kathleen.

Unanimously Carried

OtherProposed Resolution – Compensation for County Coroners

Chairman Niebel: Is there anybody here to address the Coroners situation? Nobody. Ok, I will. What has happened is that we have had some discussions with the Coroners. Right now, the Coroners are continuing to get \$80 per day for- if they have one call, if they have three calls, they are still receiving \$80 per day as far as compensation. This resolution will increase that to \$150 per case, effective April 5th – June 27th 2018. My own personal opinion is that, I think that a per case payment is more fair. Right now if we continue the per diem rate, if a coroner goes to a call on a Monday, they do all the paperwork, they do whatever is necessary for that call on Monday and then they have to come back on Tuesday to file the death certificate, they would get an extra \$80. This resolution would make it \$150 so that if they came back that second day it's still part of the original case. I do think this is more fair than the way it has been before. The compensation issue for the Coroners is something that we have discussed for the last five or six months. I think this resolution does address that. Plus, what it does is it gives us more time to- it compensates the Coroners through June 30th. During the next three months we will come up with more responsibilities, requirements, more or less a job description in writing for the Coroners that they can follow. That has been a little bit lacking in the past. So, that's the intent of this resolution. Does anybody have any questions?

Mrs. Dennison: Mr. Chairman, may I ask a question? Was there some discussion about changing the responsibility of the Coroners moving and taking them out of the Legislative-

Chairman Niebel: Kathleen, that's part of the discussion as far as defining their responsibilities and requirements for the job. That's ongoing. We haven't come to any resolutions as far as that, but this resolution will address the inequities as far the compensation. That does have to be addressed, but that can be addressed over the next three months.

Mrs. Dennison: Ok, I apologize. I haven't seen the resolution.

Chairman Niebel: We can get you a copy of the resolution. Essentially, what it does is just raises their compensation from \$80 per day to \$150 per case. I

Mrs. Dennison: Is that just for the three months?

Chairman Niebel: Yes, just for the three months. Then hopefully during that time we can work out something more definitive.

Legislator Pavlock: In response to that also, Chairman Wendel organized a special committee to investigate this and then report back to the rest of the Legislative body on their findings and determinations.

Legislator Hemmer: Was there some discussion on the calls that won't be answered by the Coroners?

Chairman Niebel: Yes, John. That's a good question. That's going to be part of the review that Dan alluded to, but it's not part of this resolution here. Again, we can get both you and Kathleen a copy of the resolution. Actually, we are just seeing it just now ourselves. That will fall under the scope of what the Coroners will- their duties will be, what calls they will answer and what they are responsible for. That will be part of the ongoing review. Again, this just addresses the compensation part of it.

Legislator Whitford: I think originally the discussion was the duplication of services and reasonably we could reduce their work load by 30%. They do nursing homes and hospice that already have that service. Their compensation is low. They say because their work load is high, but we can adjust that where we don't have a duplication of services.

Chairman Niebel: You're right. That's going to be part of the overall policy that is going to be addressed within the next 90 days.

Legislator Whitford: I'm not objecting to this, this is something that is temporary until that committee comes up with the final resolution for the Legislature.

Chairman Niebel: Ok, any further discussion on this resolution? Those in favor? Aye? Opposed?

Unanimously Carried.

Chairman Niebel: Does anyone else have anything else?

Legislator Whitford: Motion to Adjourn.

Legislator Pavlock: Second.

Unanimously Carried (5:02 p.m.)

Respectfully submitted and transcribed,
Kathy K. Tampio, Clerk/Olivia L. Ames, Committee Secretary