

Regular Meeting
Chautauqua County Legislature
Wednesday, March 28, 2018, 6:30 p.m.
Mayville, N.Y. 14757

Chairman Wendel called the meeting to order at 6:30 p.m.

Clerk Tampio called the roll and announce a quorum present. (Absent: Bankoski, Rankin)

Legislator Chagnon: I would like to request a moment of silence for the passing of Sally Carlson, Supervisor of the Town of North Harmony for the past 13 years. She was an energetic, enthusiastic, and dedicated public servant, having served on several County boards and commissions, who will be greatly missed by the community and entire region.

Legislator O’Connell delivered the prayer followed by the pledge of allegiance.

MOVED by Legislator Nazzaro, SECONDED by Legislator Chagnon, the minutes were approved. (2/28/18)

1st Privilege of the Floor

No one chose to speak at this time.

VETO MESSAGES FROM COUNTY EXECUTIVE BORRELLO
NO VETOES FROM 2/28/18

COMMENDATION:

JAMESTOWN RAIDERS
HIGH SCHOOL CLUB HOCKEY TEAM
CHAMPS

By
Legislators Chagnon, Davis, Odell & Vanstrom

COMMUNICATIONS:

1. Letters (3) – County Exec. Borrello – Re: Apptmts. to Various Boards
 2. Letter - Coroner Brigham’s Resignation
 3. T/Ellery Board – SEQR – Extension of Comment Period on Draft SEIS – Re: Chautauqua Lake Herbicide Treatment
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LOCAL LAW INTRO. 2-18 - (Print 2) – A Local Law Amending Local Law 7-90 Providing for a Management Salary Plan for County Officers and Employees (Re: Deputy County Executive for Economic Development and Director of Planning and Community Development)

Chairman Wendel: Any discussion or debate?

Local Law Intro. 2-18 – R/C Vote: 17 Yes; 2 Absent – UNANIMOUSLY ADOPTED

LOCAL LAW INTRO. 3-18 – A Local Law Amending the Chautauqua County Charter

Chairman Wendel: Any discussion or debate?

Local Law Intro. 3-18 – R/C Vote: 17 Yes; 2 Absent – UNANIMOUSLY ADOPTED

LOCAL LAW INTRO. 4-18 – A Local Law Authorizing the Creation of an Animal Abuse Registry

Legislator Niebel: At Public Safety we tabled this local law. There is some concerns about some of the wording. We're discussing with the Law Department and some of the interested parties, the exact wording of the local law. At this time I would like to make a motion to have this tabled at this time and we'll bring it back in April.

Legislator Nazzaro: Second.

Local Law Intro. 4-18 – TABLED - *Unanimously Carried*

LOCAL LAW INTRO. 5-18 – A Local Law Declaring the Opioid Epidemic and its Effects on Chautauqua County Public Nuisance and Further Establishing a Cost Recovery Procedure for the County's Expenditures Incurred in Providing Services Related to the Opioid Epidemic

Chairman Wendel: Any discussion or debate?

Local Law Intro. 5-18 – R/C Vote: 17 Yes; 2 Absent – UNANIMOUSLY ADOPTED

Chairman Wendel: Legislators, you will find a message of necessity regarding Local Law Introductory 6-18.

EMERG. LOCAL LAW INTRO 6-18 – A Local Law Amending the Chautauqua County Charter

Chairman Wendel: As you look on here, paragraph "h", there was some concern or maybe a little confusion. It says to appoint a Public Defender and the new wording is, up to 6

Coroners to serve as provided by law. The word Public Defender was previously in this paragraph so that is not new. The new piece that has been added is up to 6. Do we have a motion to bring this to the floor?

Legislator Chagnon: So moved.

Legislator Nazzaro: Second.

Unanimously Carried

Chairman Wendel: At this time this is a Charter change so a roll call will be called and a two-thirds majority is needed. Any discussion or debate?

Local Law Intro. 6-18 – R/C Vote: 16 Yes; 1 No; 2 Absent (Himelein voting “no”) –
UNANIMOUSLY ADOPTED

Legislator Nazzaro: Mr. Chairman, could the County Attorney Mr. Abdella just explain the next steps in this local law, the public hearing and so forth.

Mr. Abdella: So with all local laws because we have a County Executive form of government, under Municipal Home Rule law the County Executive after adoption of a local law by the County Legislature will give notice of a public hearing and then hold the public hearing at which point the County Executive can decide to either sign the local law which will then mean it is final and adopted or he could veto the local laws and it would come back to the County Legislature.

RESOLUTIONS:

RES. NO. 81-18 Confirm Appointment - Chautauqua County Health Board, by Human Services Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 82-18 Confirm Appointment - Chautauqua County Industrial Development Agency, by Planning & Economic Development Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 83-18 Confirm Appointment & Re-Appointments – Chautauqua County Land Bank Board of Directors, by Planning & Economic Development Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 84-18 Amend 2018 Budget Appropriations – Portland-Pomfret-Dunkirk Sewer District, by Public Facilities and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 85-18 Auth. Agreements w/ Federal Aviation Administration (“FAA”) for the Installation, Operation, and Maintenance of Air Navigation, Communication and Weather Aid Facilities at the Chautauqua County Dunkirk Airport and Greater Chautauqua-Jamestown Airport by Public Facilities Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 86-18 Authorize Extension of Grant Funding for Help America Vote Act (HAVA) SHOEBOX Grant, by Administrative Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 87-18 Changing Place of the Chautauqua County Legislature April 2018 Meeting, by Administrative Services Committee

Legislator Gould: Could we have a roll call vote?

Chairman Wendel: Certainly.

RES. NO. 87-18 - R/C Vote: 16 Yes; 1 No; 2 Absent - **ADOPTED** w/ Legislator Gould voting “no”

RES. NO. 88-18 Fiscal Year 2017 Hazardous Materials Emergency Preparedness (HMEP) Grant Program, by Public Safety and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 89-18 NYS DHSES Fire Suppression Foam Equipment, by Public Safety Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 90-18 Amend 2017 Budget for Year End Reconciliations – Additional Adjustments, by Public Safety and Audit & Control Committees

Legislator Chagnon: I believe this is the appropriate time to discuss some additional information regarding the 2017 Budget performance.

The greatest unfavorable variance, which dominated the budget performance, came from an unexpected \$3.8 million from New York State Office of Children and Family Services for juvenile detention. You will recall our shock and outrage when the rates from the State more than doubled with no notice, and were applied retroactively through 2015. The only good news is there should be no impact this year, as the 2018 Budget reflects the higher rates.

All of the unfavorable variances were analyzed, and a few of them indicate risk for the 2018 Budget. The Fly Car program experienced an operating loss of approximately \$268K in 2017, and the Finance Department is anticipating a similar operating loss in 2018. In light of the Legislature being told this program would be self-sustaining, the Audit & Control Committee expressed a desire to understand what was changed from our understanding when the program was approved in June 2017 with revenues equal to appropriations. We submitted a list of 15 questions to the Director of Emergency Services regarding what has changed from the MMA Consulting Group study of emergency services dated July, 2016. The Public Safety and Audit & Control Committees will review the answers in their April meetings. Also revenue from the Tribal Compact is budgeted at \$725,000 this year, but the Governor has been unable to resolve the stand-off with the Seneca Nation over gaming exclusivity and thus the nation is withholding revenue share payments.

The Energy Plant is also not producing profits due to dramatically lower revenues that significantly exceed lower expenses. There is no expectation the revenue rates will improve in time to salvage the \$269K profit in the 2018 Budget. A plan to improve this situation needs to be

developed.

The expectations of improved revenue from the STOP-DWI program have not materialized and put the Sheriff's 2018 Budget in jeopardy by more than \$100K. Action needs to be taken to get this program into budget compliance.

Although the Public Defender's 2018 Budget was increased substantially for additional staff, if our expectation that this will reduce the Assigned Counsel costs is unrealized the Budget could be in jeopardy by nearly \$300K.

Even though we increased the Sheriff's budget for Jail overtime, unless the hoped for improvements from the work of the Community Justice Coordinating Council accelerate, we could be facing over \$100K in Budget variance.

So we have our work cut out for us in 2018 but the good news is I think we know where we need to focus our attention. Thank you Mr. Chairman.

Chairman Wendel: Any other discussion or debate?

RES. NO. 90-18 – UNANIMOUSLY ADOPTED

RES. NO. 91-18 Authorize Agreement w/ Forestville Central School District for School Resource Officer, by Public Safety and Audit & Control Committees– **UNANIMOUSLY ADOPTED**

RES. NO. 92-18 Accept National Association of County & City Health Officials Grant for Strengthening Rural Local Health Department Capacity to Address Social Determinants of Health, by Human Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 93-18 Accept Univera Grant for Expanding Lead Poisoning Prevention in Chautauqua County, by Human Services and Audit & Control Committees – **UNANIMOUSLY ADOPTED**

RES. NO. 94-18 Authorize Agreements for Early Intervention & Preschool Programs, by Human Services Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 95-18 Requesting CCIDA to Approve No Further PILOT Agreements for Wind Energy Projects Larger Than 5 Megawatts Rated Capacity, by Planning & Economic Development and Audit & Control Committees

Chairman Wendel: Any discussion or debate? Call the roll please Madame Clerk.

RES. NO. 95-18 – R/C Vote: 17 Yes; 2 Absent - UNANIMOUSLY ADOPTED

RES. NO. 96-18 Designate Chautauqua County Legislature as Lead Agency Responsible for State Environmental Quality Review (“SEQR”) of Barcelona to Chautauqua Institution Multiuse Trail Easements, by Planning & Economic Development Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 97-18 Approving SEQR Findings for Trail Easement Acquisition for the Barcelona to Chautauqua Institution Multiuse Trail, by Planning & Economic Development Committee

Legislator Odell: As you will recall from the Planning & Economic Development Committee minutes, this resolution had been passed to the Legislature without action with our committee because at the time of our Committee meeting, we had not had the opportunity yet to review the full environmental assessment form as it was not originally included in the prefile packets. We have subsequently received all three parts of the EAF and reviewed it thoroughly. We are now able to positively assert as indicated in the first RESOLVED clause of this resolution that in accordance with Article 8 of the New York State Environmental Conservation Law that the requirements of Title 6 of New York Codes, Rules, and Regulations, part 617, that they all have been met and implementation of the proposed action will not result in any significant adverse environmental impacts. Therefore I fully support this and encourage its approval. Sorry for the confusion.

Chairman Wendel: Not a problem. Thank you very much for your words. Any other discussion?

RES. NO. 97-18 – UNANIMOUSLY ADOPTED

RES. NO. 98-18 Authorize County Executive to Enter into Amended Municipal Agreement w/ the Energy Improvement Corporation (“EIC”) for Sustainable Energy Loan Program of Chautauqua County, by Planning & Economic Development Committee – **UNANIMOUSLY ADOPTED**

RES. NO. 99-18 Authorize Sale and Option Agreements for Redevelopment of Roberts Road Properties in the City of Dunkirk, by Planning & Economic Development and Audit & Control Committees

Legislator Wilfong: The redevelopment of the Roberts Road property in Dunkirk is essential to the continued economic development in Chautauqua County. The estimated \$16.25 million dollars of development and the projected addition of 50 new jobs at that facility is too good of a deal for our County to pass up. I’m encouraging the Legislature to vote for this resolution. I’d also like to thank our County Executive and his staff for negotiating another project that is going to bring success home to Chautauqua County. Thank you.

Legislator Muldowney: I would also echo Mr. Wilfong’s comments. This project is kind of near and dear to my heart. I go back about 20 years with this project. As people know, this is a 25 acre site in the City of Dunkirk. It used to be the old Alco Brooks locomotive site back in the early 1900’s. It’s taken over 20 years to redevelop this site. It’s really big win/win for the City of Dunkirk, Chautauqua County, and New York State. It’s a really nice project because not only three governments, the Federal government put in quite a bit of money through the EPA in the late 1990’s, New York State has come through with some nice brownfield monies and the City of Dunkirk has played a big part over the last 20 years. There has been many, many people that have played a part in redeveloping this site. From County Executive’s to Mayors to City Council,

to the Development Directors within the City, IDA Directors, but I have to go back to one person who really played a role and put her whole heart and soul in this project. It was Cheryl Ruth who was the Chautauqua County Brownfield's Coordinator back in the mid 90's. Believe it or not, she took 5 County inmates and spent a February winter cleaning up the old Roblin site with some kind of a real goal in mind that someday this site would be created and be put back on the tax rolls. I also want to thank the Fieldbrook Foods for coming forward. They currently lease space not only in our County but also outside our County and outside our State and they look to the City of Dunkirk and Chautauqua County and to spend their money in our County. So as David said, it's a \$16 million dollars project for the City of Dunkirk, Chautauqua County. Hats off to a job well done by all levels of government leading by our County Executive and again, Cheryl Ruth for having the gumption to keep working and 20 years later this project is going to be built. Thank you.

Chairman Wendel: Any other discussion or debate:

RES. NO. 99-18 – R/C Vote – 17 Yes; 2 Absent - **UNANIMOUSLY ADOPTED**

RES. NO. 100-18 Compensation for County Coroners, by Public Safety and Audit & Control Committees - R/C Vote – 16 Yes; 1 No; 2 Absent – (Himelein voting “no”) – **ADOPTED**

RES. NO. 101-18 Quit Claim Deeds, by Administrative Services and Audit & Control Committees - R/C Vote – 17 Yes; 2 Absent - **UNANIMOUSLY ADOPTED**

MOTION:

A. Opposing Governor Cuomo's Proposal Contained in the 2018 Budget Review Bill to Amend Laws Regarding the Current 480 & 480-A Forest Exemption and to add a new 480-B Taxation of Forest Land Under a Forest Practice Program or Forest Certification Program known as the Empire Forests for the Future Initiative

Legislator Odell: In addition to the reasons listed in each of the WHEREAS's clauses in this Motion opposing the Governor's proposal, from a tax perspective, we also seek to support its opposition by the New York State Forest Owners Association and the Empire State Forest Products Association. Both of these entities represent the private forest owners as well as the timber professionals a like. They all have very strong concerns over and quite frankly, oppose also any efforts to enact an onerous Statewide commercial timber harvest notification law that could potentially grant the DEC the equivalent of legislative power over the private lands and forest throughout the State. They are also asking for our supporting in this opposition.

Chairman Wendel: Thank you. Any other discussion or debate?

MOTION - UNANIMOUSLY ADOPTED

ANNOUNCEMENTS – None given

2nd Privilege of the Floor

My name is Chris Jackson, I live up in Arkwright. The whole ordeal with this wind turbine, I don't know if anybody is checking these guys out or not, but Center Road from Meadows to Straight Road is just about gone. Being in the construction business, I know what they are going to do. They are just going to lay blacktop over it. It's almost down to base. Bard Road, Meadows Road, they are gone. I wouldn't even drive my tractor up and what are town did is they basically sold the town out for peanuts. Our taxes just keep going up and this was supposed to help our taxes. It hasn't helped them one iota. I don't know what we can do. But, as soon as I retire, I'm about in a position to sell in the farm and move out of Chautauqua County and out of New York State because of these taxes keep going up and we don't even see anything from this PILOT agreement from these wind turbines lowering our taxes. I don't know if anything can be done.

Good evening everybody, my name is Jack Szumigala, I live in the Town of Arkwright. Last time I spoke to everybody here was in January, it was right smack dab in the middle of hell. Never thought that hell could get worse but it has. Along with what Mr. Jackson just said. The overall incompetence that has been bestowed on each and every resident in the Town of Arkwright from this wind mill project is disgustingly obvious. From infrastructure, driveways and roads that have to be replaced because they can't take the deliveries after 7 months of non-stop truck traffic, putting gravel and so on and so forth on the ground, they have admitted they have never dealt with, worked with, seen, and can't combat and can't fix. Brainard Road is no longer passable. I brought this up to our last board meeting and what they were doing to ensure public safety on this road, they assured me that they are monitoring and I asked them, "how do you monitor something that you don't know how to correct?". They had no answer. So the public is at their mercy for emergency vehicles to get up and down that road. (*Inaudible*) their total disregard for public safety and our town is gone. It hasn't been there so I'm with Mr. Jackson. If there is anything that the County on your guys' level can do to help us, not only would it be greatly appreciated but it would be a Godsend because right now, we're at the mercy of whatever they decide is best for us and it's not by no means. For everybody that agreed to this PILOT, I applaud you. Speaking on behalf of me and my son that spoke in January to you all, thank you very much.

Joan Riggle, Sinclairville, New York. I want to thank you for passing the resolution no PILOT program over 5 megawatts. I think it's very timely I believe a visual aid helps to realize the magnitude of the impending and dramatic transformation of rural New York from industrial scale wind projects. For reference please note Chautauqua County, the Finger Lakes, Adirondack Park, which is luckily is an exclusion zone, downstate Long Island. The orange markers (*showing a map*) depict current wind projects, the pink are those in the pipeline for development. We will essentially have one massive wind farm project from the Finger Lakes to Chautauqua Lake, even the gorgeous Thousand Islands are under attack. The latest projects in nearby Ally Cat Wind is a huge project in Alleghany and Cattaraugus County and Blue Stone Wind. They anticipate using 600 to 700 foot turbines. That's like twice the size of the ones out in Wyoming County and it's because our winds are considered low. As this map shows western New York and upstate New York are being disproportionately targeted. Sadly we are the sacrifice zone chosen to produce electricity to light up New York City's skyscrapers and neon signs or even to

be sold out of State like Cassadaga Winds. The big wind companies will come back. They plan to expand. As you can see, (*away from microphone – inaudible*) usually do come back in that same area, the infrastructure is in. Virtually our pristine Adirondack Park remains in an exclusion zone. Please note the other exclusion zone stretching from Albany down to Long Island. In fact, Governor Cuomo promised Montauk, Long Islands wealthy elite that they would not hear or see the turbines. He also promised that they would be sited 30 miles off shore and in sharp contrast, Governor Cuomo's handpick siting board did not protect but instead praised and rubberstamped our wind project that will be cited a 1,000-1,500 feet from homes. Many residents will see them from miles away but some will also hear them and experience intrusive shadow flicker and vibrations within their homes and even their bodies. So, I really applaud you for passing that resolution. Thank you.

My name is Diane Clark. I'm a resident of Chautauqua County. I live at 8531 Bear Lake Road. I also want to add my applause, my sincere gratitude to the legislative body here who has stood up against these huge 500 foot turbines that don't really produce all the electric power that they claim they will and use a vast amount of our fossil fuel, believe it or not. They are almost like a gimmick, the corporations have used to make money. Let's put them in and they put them in where ignorance raises high and the need for money is there. We're seeing them go in in many, many places. So, I thank you very much for caring about Chautauqua County. I know our economics are important but so is our land. So is our air and that's what you have stood up and said there is a limit and we're not just going to let these big industries ramrod over us. Thank you very much. I've never respected a legislative body as much as I have respected to for passing this one ordinance.

My name is Bill Moran, Town of Pomfret and Portland resident. We live right on the Town line. So we're familiar with both districts and we're very curious about what is going to happen as far as these townships adopting their local laws on wind. I think that we need to take a real good look about what is going on in Arkwright right now and perhaps you can make some decisions about how that is going to go. Let's see what these things look like because they are coming, is that not true? Unfortunately, let's see what these things look like and as far as the County Board of Tourism, I don't think people are going to come around for miles just to look at these things. I've heard people make that kind of a remark and it upsets me. So thank you for your concern. Please everybody do your homework, look at the statistics, like what was just presented, look at other forms of the media and what's going on. Some places they aren't working, they are decommissioning them. But anyway, everybody do their homework please before you make any big decisions about wind power on that scale. The smaller turbines seem to be doing fine generating. So, thank you for hearing me out.

Chairman Wendel: Anyone to speak to the second of the floor? Seeing none, we'll close the second privilege of the floor.

MOVED by Legislator Gould, SECONDED by Legislator Starks and duly carried the meeting was adjourned. (7:17 p.m.)

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