

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: LEGISLATIVE & RULES

DATE: JUNE 9, 2014

COMMITTEE MEMBERS PRESENT:

SUPERVISORS MONROE
GIRARD
SOKOL
WOOD
FRASIER
WESTCOTT
STROUGH

OTHERS PRESENT:

KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ADMINISTRATOR
MARTIN AUFFREDOU, COUNTY ATTORNEY
JOAN SADY, CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER
SUPERVISORS BROCK
MERLINO
TAYLOR
PAUL JENSEN, SENIOR WILDLIFE BIOLOGIST, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
JIM LIEBERUM, DISTRICT MANAGER, WARREN COUNTY SOIL & WATER CONSERVATION DISTRICT
DON LEHMAN, *THE POST STAR*
AMANDA ALLEN, DEPUTY CLERK OF THE BOARD

Mr. Monroe called the meeting of the Legislative & Rules Committee to order at 10:03 a.m.

Motion was made by Ms. Wood, seconded by Mrs. Frasier and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

Copies of the meeting agenda were distributed to the Committee members and a copy of same is on file with the meeting minutes.

Commencing the agenda review, Mr. Monroe announced Item 1 pertained to a request from Assemblyman Stec for review of Assembly Bill (AB) 9650, an act to amend the environmental conservation law in relation to abolishing the Hudson River-Black River Regulating District (*HRBRRD*) and devolving such powers to the power authority of the State of New York; he pointed out that a copy of the bill text was included in the agenda packet. Mr. Monroe apprised he had recently spoken with Assemblyman Stec about this matter and was advised there were some unresolved concerns that should be addressed before taking any action to support the AB.9650. For instance, he continued, they believed this would not cancel any existing obligations to the HRBRRD, as per a clause in AB.9650 stating that existing rights or obligations would be transferred to the power authority. Another big concern, Mr. Monroe stated, was the permitting authority and he noted that there were about 4,000 permits issued to property owners surrounding Sacandaga Lake for use of area between the deeded property lines and the high water mark which was owned by the HRBRRD. He clarified that ownership of this property would be transferred to the power authority, raising some questions as to whether upon transfer this land would become Forest Preserve. Mr. Monroe apprised that the HRBRRD was currently controlled by a board of directors with local representation, but noted if the regulating responsibility was transferred to the power authority all of the members would be located in the Albany area, eliminating any local influence. Referring to paragraph 6 of AB.9650, Mr. Monroe quoted a section of the bill which stated "*No county within the Hudson River-Black River regulating district shall be liable to such regulating district for any tax payments, fees, charges and/or assessments*" and he noted this might be one good part of the bill. In conclusion, Mr. Monroe stated there were a number of issues with the bill and questions to be answered and he did not feel that the Committee should act on the request until they were addressed.

Mr. Strough commented that when he had first read AB.9650 he initially believed it to be an attempt to alleviate an obligation that had seemed unfair from the start; however, he stated, in inspecting it further he had found this was clearly not the case.

Martin Auffredou, County Attorney, advised he had spoken with the County Attorneys from both Saratoga and Washington Counties and had learned that neither County had taken any action in support of AB.9650. He said he had reviewed the bill and its legislative history and it appeared there was some intent to eliminate both current and future obligations. Mr. Auffredou clarified the County had a prior indebtedness to the HRBRRD which had been paid off, leaving only the ongoing obligation for which payments were made annually in the fall. He noted paragraph 6 of AB.9650, which indicated that no county within the HRBRRD would be liable to such regulating district for payment of taxes, fees or assessments, pointing out that this language was somewhat ambiguous because there would no longer be a regulating district; however, he stated, language on the first page of AB.9650 indicated that all obligations, commitments, determinations, etc. would be devolved and assigned to the power authority. Mr. Auffredou apprised that he and the County Attorneys from Saratoga and Washington Counties had discussed the possibility of the three Counties adopting mirroring resolutions indicating that they would be in support of AB.9650 with the understanding that obligations would be eliminated, rather than transferred to the power authority, following which contact would be made with Assemblyman McDonald to request a specific amendment of this nature to AB.9650.

Mr. Monroe agreed that the point Mr. Auffredou introduced was a big part of the questions raised concerning AB.9650, but stated that an even bigger issue was the possible effects to the permitted use of the section of property located between a deeded property boundaries and the high water line. He reiterated that many residents held these permits and AB.9650 in no way addressed how they would be affected. He continued they also needed to consider the argument that this property would be considered forest preserve, an argument he said might only be strengthened by transferring regulatory authorities to a State agency.

Mr. Girard requested that further research be performed regarding the history of the HRBRRD and its formation, as well as the possible repercussions of its elimination. He noted that authorities were not easily formed and there must have been a reason that the efforts were made to introduce the HRBRRD. Mr. Girard stated that he was not in favor of eliminating the regulating district simply because of the fees incurred and wanted to have a clear picture of what benefits the district provided before acting in a manner supportive of its elimination.

Following further discussion, motion was made by Mr. Westcott, seconded by Ms. Wood and carried unanimously to table Agenda Item 1.

Mr. Auffredou indicated he would be happy to provide a summary report regarding the history of the HRBRRD and its powers and duties for use in further discussions.

Moving on to Agenda Item 2, Mr. Monroe referenced a request for support of AB.9617/Senate Bill (SB) 7273, an act to amend the environmental conservation law in relation to aquatic invasive species spread, prevention and penalties. He said that during the prior week NYSDEC (*New York State Departmental of Environmental Conservation*) regulations had become effective to prohibit boats with visible invasive species from launching at State boat launches, or leaving a State boat launch without draining the boat. Mr. Monroe advised that AB.9617, introduced by Assembly Members Lifton and Sweeney, would enact the aforementioned regulations at all boat launches in New York State. He commented that although AB.9617/SB.7273 would not solve the invasive species problem, it was a step in the right direction.

Motion was made by Mr. Strough, seconded by Mr. Sokol and carried unanimously to approve a resolution in support of AB.9617/SB.7273 for presentation at the June 20th Board Meeting.

Mr. Monroe advised Agenda Item 3 consisted of a request for support of AB.9927, an act to amend the navigation law in relation to directing the NYSDEC to establish and provide for the posting of universal signage at public boat launches warning of the threat of aquatic invasive species and providing for the elimination of such threat posed by watercraft.

Motion was made by Mr. Strough, seconded by Ms. Wood and carried unanimously to approve a resolution in support of AB.9927 for presentation at the June 20th Board Meeting.

Although it was not noted on the agenda, Mr. Monroe apprised that a bill had been introduced to increase the permissible time for bonding of biomass projects and he said it appeared the proposed legislation had good standing as Assemblyman Stec had been successful in obtaining sponsorship for the bill.

Concluding the agenda review, Mr. Monroe introduced Paul Jensen, Senior Wildlife Biologist for the NYSDEC, who was in attendance to make a powerpoint presentation on beaver dam hazards and possible alternatives.

Mr. Jensen advised he had been working with NYSDEC for the past 11 years, operating out of their Warrensburg offices, as well as on a regional basis. He said he worked with a variety of species, but beaver issues assumed the majority of his time due to the number of nuisance complaints received. Mr. Jensen noted that he had begun his career working as a Wildlife Biologist for Cornell University, having spent a lot of time researching highway damage issues predominantly related to beaver activity, and determining ways to mitigate those problems. He said he was in attendance to provide a very general presentation on beaver biology and ecology, as well as how they dealt with beaver-related issues through both lethal and non-lethal methods and what the towns could do to mitigate these problems. Mr. Jensen then proceeded to make a powerpoint presentation, a copy of which is on file with the meeting minutes.

During his presentation, Mr. Jensen indicated the most prevalent types of beaver-related road damage were attributed to flooding caused by plugged culvert pipes. He stated placement of a grate across culvert pipes was the most inexpensive way to stop this type of activity. Mr. Jensen apprised that when choosing a spot to build a dam, beavers were most attracted to areas with changes in flow rates and the sound of flowing water. He further apprised that smaller culvert pipes were more attractive damming areas for beaver and in reconstruction projects, towns might consider incurring the expense of installing larger culvert pipes as they were far less attractive to the beaver and less likely to be the site of beaver activity, thereby reducing the probability of future flooding issues and the resulting road damages, consequently leading to lower long term costs. Mr. Monroe interjected that FEMA (*Federal Emergency Management Agency*) often offered funding opportunities to mitigate costs in areas where there are known beaver-related problems.

Mr. Monroe cited previous beaver-related flooding events which had presented real hazards to life and property that had incurred significant repair costs to Warren County. He noted that in prior meetings discussions had been held relative to whether there was a way to inventory sites in an effort to recognize the potential for these types of flooding possibilities in advance and try to prevent them. Mr. Monroe added that some of the beaver dams would be located on Forest Preserve and private property, which presented a second set of issues to consider in determining how to legally remove them. He then questioned whether Mr. Jensen was aware of any efforts being made to identify beaver dam sites and how best to address the problem of removing them from regulated/private property. Mr. Jensen responded he was not aware of any action of this nature and he noted that it was very difficult to identify these areas because the region was so heavily wooded. He commented that given

the GIS (*geographic information systems*) capabilities available, he assumed a review of this nature could be performed to monitor existing beaver colonies and water bodies, followed by some field verification. The question they faced, Mr. Jensen stated, was how to address the presence of problematic beaver dams located on private or Forest Preserve property. He noted that developing a program such as this would require a significant research effort and resources; Mr. Jensen stated that the towns needed to be as proactive as they were able to be in order to prevent potential beaver-related flooding events, but agreed this was a tough situation to address.

Mr. Monroe cited issues where neighboring residents might disagree about the presence of a beaver dam, with one resident wanting it to be removed and another enjoying the pond area created by the dam, and he noted that if the dam was located on private property there was not much the town could do. Mr. Jensen agreed, stating that in these cases the only thing they could hope for was that the issue would be resolved between the neighbors as the town had no authority to remove a beaver dam located on private property. He said that in some cases, NYSDEC suggested the use of a mediator to try and resolve the issue and he stated that, thankfully, this was not a common occurrence.

A discussion ensued, following which Mr. Jensen encouraged anyone with additional questions to contact him directly.

There being no further business to come before the Legislative & Rules Committee, on motion made by Mr. Simpson and seconded by Ms. Wood, Mr. Monroe adjourned the meeting at 11:15 a.m.

Respectfully submitted,
Amanda Allen, Deputy Clerk of the Board