

COUNTY OF CLINTON)
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STATE OF NEW YORK)

March 31, 2015

Stenographer's minutes of the Regular Session of the Clinton County Legislature held
Wednesday, March 25, 2015 in the Legislative Chambers, 137 Margaret Street, Plattsburgh, New York.

PRESENT: Jonathan Beach, Area 2
Mark Dame, Area 8
Robert Hall, Area 10
Pete Keenan, Area 5
James Langley, Jr., Area 7
Harry McManus, Deputy Chairperson, Area 1
Colin Read, Area 4
Patty Waldron, Area 6

EXCUSED: Samuel Dyer, Chairperson, Area 3
John Gallagher, Area 9

ALSO PRESENT: Michael E. Zurlo, County Administrator
Rodney Brown, Deputy County Administrator
James Coffey, Esq., County Attorney
Melody Lemieux, Principal Stenographer

Deputy Chairperson Harry McManus called the meeting to order at 7:02 p.m.

Following the pledge of allegiance to the flag, County Administrator Michael Zurlo conducted roll call. Legislators Dyer and Gallagher had asked to be excused.

Legislator Hall motioned to accept the minutes of the March 11th Regular Session, seconded by Legislator Keenan. (Carried 8-0-2).

Deputy Chairperson McManus asked if anyone wished to address the Legislature.

Tina Sullivan, a Clinton County Public Transit (CCPT) bus driver, addressed the Legislature regarding proposed changes to the CCPT bus schedule. Ms. Sullivan objected to eliminating the Grand Isle run. She is aware of an individual who uses the bus on a regular basis to get to and from work, and another individual who uses the bus to get to medical treatments. Ms. Sullivan noted some of the drivers are starting to refuse overtime. Some of the senior drivers are insulted they will not be making much more money per hour than the new drivers that are just starting. Ms. Sullivan claimed there are no drivers making between \$15 to \$16 per hour.

Debra Buell of Plattsburgh also spoke regarding Clinton County Public Transit. Ms. Buell referenced written materials which she had earlier shared with the Transportation Committee. (A copy of the documents are attached and made part of the minutes.) Ms. Buell urged the Legislature to solicit public comments prior to changing the bus schedules and implementing a reduction in services.

Deputy Chairperson McManus stated this issue will continue to be discussed at the next Transportation Committee meeting scheduled for Monday, April 13th at 5:15 p.m.

There being no one else who wished to address the Legislature, Chairperson Dyer called for standing committee and liaison reports.

Committee Reports

Children and Family Services Committee – Legislator Waldron

Legislator Waldron reported the Children and Family Services Committee meeting scheduled for Thursday, April 2nd has been cancelled.

County Operations Committee – Legislator Read

Legislator Read reported he and County Administrator Michael Zurlo attended a meeting earlier in the day at the Town of Plattsburgh offices with representatives from the New York State Association of Counties (NYSAC), Town Supervisors, Village Mayors and the Mayor of the City of Plattsburgh and gave a presentation about the tax freeze and the opportunities for shared services. The meeting was well attended.

Finance Committee – Legislator Dame

Legislator Dame reported the Finance Committee will meet Tuesday, April 7th at 5:00 p.m.

Health Committee – Legislator Beach

Legislator Beach reported the Health Committee meeting scheduled for Thursday, April 2nd has been cancelled.

Human Services Committee – Legislator Keenan

Legislator Keenan reported the Human Services Committee meeting scheduled for Wednesday, April 1st has been cancelled.

Plattsburgh International Airport Committee – Legislator Langley

Legislator Langley reported the Plattsburgh International Airport Committee met briefly this evening. A number of draft resolutions have been placed on the agenda as a result of the Committee's recommendation. Turner Bradford of McFarland-Johnson, Inc. was in attendance to discuss the Terminal Buildings Expansion Project. The Committee selected materials for seating and made a decision on the charging stations. The Committee was also provided with an update on the visit to the Airport District Office (ADO). Legislator Langley reported Clinton County will be receiving additional funding for Obstruction Removal surrounding the Airport.

Public Safety Committee – Legislator Hall

Legislator Hall reported the Public Safety Committee will meet Monday, April 13th at 6:15 p.m.

Transportation Committee – Legislator McManus

Legislator McManus reported the Transportation Committee met Monday, March 9th at 5:15 p.m. and discussed the CCPT bus routes. Two resolutions have been placed on the agenda this evening. One of the biggest concerns Legislators heard was the need for transportation for college students.

Liaison Reports

Chamber of Commerce – Legislator Read

Legislator Read reported the Plattsburgh-North Country Chamber of Commerce hosted the Congressional Delegation from the northern border last week. The Strategic Tourism Planning Committee will meet next week.

Cooperative Extension – Legislator McManus

Deputy Chairperson McManus reported Cooperative Extension recently met and selected its new director, Mary Breyette. Ms. Breyette currently serves in Essex County. She was the unanimous selection of the committee, and salary negotiations are underway.

Approximately 435 residents participated in the Food to Farm Program which continues to expand each year.

Cooperative Extension will be signing a Memorandum of Agreement with Clinton and Essex Counties to fund a Finance position. This is part of the shared services concept that Cooperative Extension has been doing the last several years.

Board of Health – Legislator Beach

Legislator Beach reported the Board of Health met Monday, March 23rd. The Board discussed the ongoing interactive web designs.

Legislator Beach stated he was happy to announce the Clinton County Health Department has been approved its National Public Accreditation through the Public Health Accreditation Board (PHAB). The Health Department was one of only 59 Health Departments in the nation to get Public Accreditation and one of two in New York State.

Intercounty – Legislator Waldron

Legislator Waldron reported the Intercounty Legislative Committee of the Adirondacks will meet Thursday, March 26th in St. Lawrence County. She will provide a report at the next Regular Session.

Grievance Committee – County Administrator Zurlo

Mr. Zurlo reported the Grievance Committee met Tuesday, March 17th. The grievance was denied as presented, and the decision was conveyed to all parties.

There may be another potential grievance forthcoming, and a meeting may be scheduled in the near future.

Workforce Investment Board – Legislator Read

Legislator Read reported the Workforce Investment Board (WIB) recently met in Saranac Lake. The Workforce Investment Board is currently funded under a Congressional Act and as of July 1, 2015, there will be a new set of regulations to follow. The WIB is adjusting its bylaws and strategies in an effort to meet the new regulations.

Staff Reports

County Attorney James Coffey requested an Executive Session to discuss the potential purchase of real property by Clinton County.

Mr. Zurlo referred to Legislator Read's report regarding their meeting at the Town of Plattsburgh earlier in the day. Mr. Zurlo and representatives from the New York State Association of Counties (NYSAC) provided a presentation on the Tax Freeze Requirements and the Shared Services Efficiency Plan. Town Supervisors and Mayors from the three Villages and the City of Plattsburgh were invited to the meeting. Mr. Zurlo reported all municipalities were offered the opportunity to work together under one umbrella with the County (if they choose) as long as they are under the tax cap. The deadline for the Towns and Villages to submit information to the County is May 1st, and the County must submit their Shared Services Plan to the State by June 1st. He asked Legislators to remind Towns and Villages that all information must be submitted to the County by the May 1st deadline.

There being no further business, Deputy Chairperson McManus moved on to resolutions. The following resolutions were approved unless otherwise noted.

Resolution #201 titled, “Urging Unconditioned Proper and Sufficient Funding of New York State Schools and Supporting the Delayed Implementation of the Common Core Initiative Until Such Time Proper Input is Received – Legislature” was moved by Legislators McManus, Langley, Beach, Ms. Waldron, seconded by Messrs. Read, Keenan, Dame and Hall. Carried (8-0-2).

Discussion: Deputy Chairperson McManus thanked Christy Bezrutezyk and Rod Sherman for their presentations and guidance in looking at the Common Core Initiative.

Resolutions #202 through #207 were approved.

Resolution #208 titled, “Authorizing Lease Amendment with Sikorsky Aircraft Corporation – Plattsburgh International Airport” was moved by Legislator Langley, seconded by Legislator Dame. Carried (8-0-2).

Discussion: Deputy County Administrator Rodney Brown reported Sikorsky Aircraft Corporation has requested permission to extend their lease for three months, ending June 30, 2015. This will allow leases for both Nose Docks #1 and #2 to end on June 30, 2015. Sikorsky Aircraft Corporation has indicated to the Airport Manager they intend to extend both leases at least one additional year.

Legislator Read questioned if the County would have to continue paying the brokerage fees. Mr. Zurlo replied United Technologies Corporation handles all of the negotiations and real estate contracts for a host of companies (including Sikorsky Aircraft Corporation). He stated the County will probably have to pay a percentage on a dollar amount, and noted there is not a lot of flexibility with this company. Mr. Brown stated this will continue as long as the County continues having lease agreements with this company. Mr. Brown stated when lease renewals are discussed, Sikorsky Aircraft Corporation requires the County work with United Technologies Corporation.

Resolutions #209 through #216 were approved.

Resolution #217 titled, “Authorizing Clinton County Public Transit (CCPT) Bus Route Changes – Clinton County Public Transit” was moved by Legislator McManus, seconded by Legislator Read. Carried (8-0-2).

Discussion: Mr. Brown reported he contacted the New York State Department of Transportation to ensure the County was aware of the proper procedures to follow in changing bus routes. Mr. Brown was informed the County was required to publish a notice in the newspaper to provide a 30-day notice before changes in service are initiated. Mr. Brown stated the changes will be enacted on Monday, April 27th.

Legislator Read inquired if the Champlain route would include the Grand Isle run. Mr. Brown replied in the past, there were gaps in other routes which were used to service the Grand Isle run. As gaps in the runs no longer exist due to shifting the routes, all of the Grand Isle runs will be eliminated (as it is one of its lowest service routes) if this resolution were to be adopted. Legislator Read stated the Grand Isle route is quite long and asked if it were possible to have a stop at Champlain Park. Mr. Brown stated most of the people catch the bus at Cumberland Corners; there are very few people on Cumberland Head. If the bus were deviated to Champlain Park, the additional 10 minutes would impact the run as the bus run would not be able to run on the hour. Mr. Zurlo asked if additional drivers are added, would this allow flexibility in the run. Mr. Brown explained the route schedules are very intricate in how they interconnect with other routes. It’s done so that routes coming in from the rural areas of the County will connect with City routes. If the bus arrives too late at the hub at the Government Center, passengers may have to wait 1½ hours before they can catch the City bus to get to their destination.

Mr. Brown reported if all routes are running, there are 26 driver shifts. On a regular basis, they need 24 driver shifts. The proposed routes (included on Resolution #217) will require 20 driver shifts. There were 14 drivers, and three new drivers came on to make 17 drivers to cover the 20 driver shifts; therefore, overtime is still required to do the proposed routes on this resolution. There is not a lot of flexibility to increase driver shifts. Legislator Read asked Mr. Brown to continue looking into possible ways to get into Champlain Park. Mr. Zurlo stated this resolution's proposed schedule is much more accommodating than the resolution which was passed two weeks ago.

Resolutions #218 through #222 were approved.

Legislator Hall motioned to Waive Rule 13.2, seconded by Legislator Read. (Carried 8-0-2).

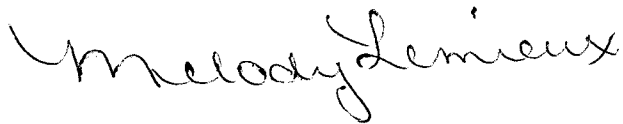
Resolution #223 was approved.

Legislator Keenan motioned to enter into Executive Session at 7:54 p.m., seconded by Legislator Hall. Carried (8-0-2).

Legislator Hall motioned to exit Executive Session at 8:56 p.m., seconded by Legislator Dame. Carried (8-0-2).

There being no further business, Deputy Chairperson McManus entertained a motion from Legislator Hall to adjourn Regular Session at 8:57 p.m., seconded by Legislator Dame. (Carried 8-0-2).

Respectfully submitted,



Melody Lemieux
Principal Stenographer

:ML

Emailed to the Transportation Committee March 9, 2015

The New York State Dept. of Transportation and the New York State Dept. of Motor Vehicles have cooperatively adopted the Federal Laws that apply to commercial drivers of all types of vehicles. Passenger vehicles whether a small medical transportation van or a city bus must abide by these same rules.

Since First Transit is the largest transportation company in the world, there is no way that they are not aware of these regulations. Nationally, First Transit has been sued by drivers for driving hours violations hundreds of times. Drivers, unionized or not, need to be concerned about these violations because driving past the allowed hours can put their licenses at risk (at the minimum) and they can be held legally liable for injuries and deaths if one occurred that was able to be related to driver error and fatigue unless they could prove a mitigating circumstance compelled them to drive past the acceptable hours range.

Applicable Excerpts:

§ 395.5: Maximum driving time for passenger-carrying vehicles.

Subject to the exceptions and exemptions in § 395.1:

(a) No motor carrier shall permit or require any driver used by it to drive a passenger-carrying commercial motor vehicle, nor shall any such driver drive a passenger-carrying commercial motor vehicle:

(1) More than 10 hours following 8 consecutive hours off duty; or

(2) For any period after having been on duty 15 hours following 8 consecutive hours off duty.

(b) No motor carrier shall permit or require a driver of a passenger-carrying commercial motor vehicle to drive, nor shall any driver drive a passenger-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

Citation: [70 FR 50073, Aug. 25, 2005]

It is incumbent upon the driver's employer or the driver, if self employed to keep the following records to be able to properly determine if Road Hours of Service are in compliance:

From: § 395.1: Scope of rules in this part.

(B) A passenger-carrying commercial motor vehicle driver does not exceed 10 hours maximum driving time following 8 consecutive hours off duty; and

(v) The motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The time the driver is released from duty each day; and

(D) The total time for the preceding 7 days in accordance with § 395.8(j)(2) for drivers used for the first time or intermittently.

As with every law, there are exceptions to answer unique or unpredictable circumstances:

(b) Driving conditions—(1) Adverse driving conditions. Except as provided in paragraph (h)(2) of this section, a driver who encounters adverse driving conditions, as defined in § 395.2, and cannot, because of those conditions, safely complete the run within the maximum driving time permitted by §§ 395.3(a) or 395.5(a) may drive and be permitted or required to drive a commercial motor vehicle for not more than 2 additional hours beyond the maximum time allowed under §§ 395.3(a) or 395.5(a) to complete that run or to reach a place offering safety for the occupants of the

commercial motor vehicle and security for the commercial motor vehicle and its cargo.

(2) Emergency conditions. In case of any emergency, a driver may complete his/her run without being in violation of the provisions of the regulations in this part, if such run reasonably could have been completed absent the emergency.

If you're wondering, the short answer is that the accepted standard under normal conditions is 10 hours maximum on the road with a minimum 8 hour period of off-duty time. There is a new rule recently published by the Federal Highway Administration that is allowing an 11 hour drive day followed by an 8 hour off duty period. This rule is currently open for comment by stakeholders and State DOT's.

Emailed to the Full Legislature on 3/11/2015: Reference: 1. 49 USC Chapter 53

Excerpt begins:

First, the public notice requirement for changes in schedules, routes or fares is established by Federal Law. The common pattern and practice has been to make changes based on the recommendations of Brown and Bosley.

Seeking public input would assist the County Legislature in assessing impacts and obtaining ideas from the community that Brown & Bosley may not have considered. Input has been attempted by many interested parties ranging from riders, human service agencies, non-profits to drivers. Many times, regardless of the value of the input or the knowledge of the speakers, the input is simply dismissed or.... heard, then dismissed. Public input and involvement is a requirement of recipients of Federal Grants (all grants).

Reference: 1. 49 USC Chapter 53

PUBLIC COMMENT PROCESS FOR FARE INCREASES AND SERVICE REDUCTIONS BASIC REQUIREMENT The grantee is expected to have a written copy of a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation services. **AREAS TO BE EXAMINED** 1. Existence and Application of Locally Developed Process to Solicit and Consider Public Comment a. Prior to raising fares b. Prior to implementing a major reduction of service. **REFERENCES** 1. 49 USC Chapter 53, Federal Transit Laws, as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Labello, Mike (DOT) <Mike.Labello@dot.ny.gov>

5/6/13

to Tom, me

It is a requirement to offer 30 days notice on changes to the public service Deb, and James is aware of that since he's always called me and complied in the past. If you feel that isn't going to happen please give me the specifics on the changes you are hearing about and I'll look into that.

Full Document:

[file:///C:/Documents/Downloads/Environmental Justice Policy Guidance for Federal Transit Administration Recipients - Circular \(FTA C 4703 1\).pdf](file:///C:/Documents/Downloads/Environmental%20Justice%20Policy%20Guidance%20for%20Federal%20Transit%20Administration%20Recipients%20-%20Circular%20(FTA%20C%204703%201).pdf)

You will not be able to mitigate risk or liability by attempting to place all blame on First Transit. When the County received it's transportation grant and contract, you agreed to the standard grant assurances and specifications that REQUIRE you to oversee your contractor to ASSURE their compliance with your grant and contract agreements, assurances and certifications.

8.2 The Municipality/Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement. Negligent performance of service, within the meaning of this section, shall include, in addition to negligence founded upon tort, negligence based upon the Municipality/Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

8.3 The Municipality/Sponsor shall at all times during the Contract term remain responsible. The Municipality/Sponsor agrees, if requested by the Commissioner of Transportation or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

8.4 The Commissioner of Transportation or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Municipality/Sponsor. In the event of such suspension, the Municipality/Sponsor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Municipality/Sponsor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

8.5 Upon written notice to the Municipality/Sponsor, and a reasonable opportunity to be heard with appropriate Department of Transportation officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the Municipality's/Sponsor's expense where the Municipality/Sponsor is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

Please see the NYSDOT Standard Clauses excerpts (full document of NYSDOT Standard Clauses is attached below). Also attached is a Public Participation full document.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the municipal corporation may terminate this contract for default. the municipal corporation shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the municipal corporation goods, contractor shall, as directed by the municipal corporation, protect and preserve the goods until surrendered to the municipal corporation or its agent. Contractor and the municipal corporation shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the municipal corporation's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work as an essential part with the

Excerpt from a 1/4/2013 Email from Mike Labello (circulated between me, Mike Labello, Tom Vaughan, Rodney Brown, James Bosley, Lonnie Armes (First Transit) Robert Poulin & Karin Pataky (NCCI):

Mike Labello:

Paratransit is a simple concept, if you offer it, it must be offered same times, days and hours as the fixed routes it accompanies up, to ¾ minimum. Stating that in and of itself allows for trip planning by an individual who requires the service and is eligible. I believe the riders simply are not aware of these very straight forward facts. I further caution against referring to the rural routes as paratransit, as that is not technically their design nor their presentation. If the paratransit services are to be offered at that level it needs to be clear to all involved, including NYSDOT. What that will mean to a budget also needs to be understood. Thanks for your input Debra, and your willingness to bring this to light in an amicable manner.