

Special Meeting

January 15, 2009

APPROVED 2-3-09

Call to Order

Mr. Koplinka-Loehr called the meeting to order at 4:45 p.m.

Pledge of Allegiance to the Flag and Roll Call of Members

Members and guests participated in the Pledge of Allegiance to the Flag.

Present: 13 Legislators (Legislator Randall arrived at 4:55 p.m.). Excused: 2 (Legislators Shinagawa and Stevenson).

Statement by Chairman Koplinka-Loehr

“I thank you all for arranging your schedules to attend today’s special meeting.

“I have called this meeting of this body to declare to a quorum of those assembled that I made a decision in error at our last meeting and this informational session will lay out our options for correcting that decision at a future meeting. No action is requested by me or necessary of the Legislature today, and thus no one not able to attend would have their vote disenfranchised.

“Upon reviewing the tape of the January 6th legislature meeting and in consultation with Jonathan Wood, our County Attorney and Parliamentarian, it is quite clear that when I called for a revote on Vice Chair after a recess I did not have the authority to do so. Several Legislators pointed that improper action out to all of us during the meeting of January 6th but we did not take corrective action due to the confusion my mistake caused for the remainder of the meeting. That constituted a breach of our rules, and Robert’s Rules of Order are the parliamentary rules which apply for elections in this instance. In a moment I will lay out options for definitively correcting that breach and the corresponding ruling which I made later in the meeting.

“Before I do so, you, my esteemed colleagues, our staff, and the public deserve an apology and a more complete explanation of my actions. First and foremost, I offer my deepest possible apology for this human mistake, to you all, to the entire organization of county government, and to the entire community of fellow citizens that I have sworn an oath to serve. I erred and I ask for your consideration of understanding and possible forgiveness for that error, which I am committed to correcting commencing with this meeting.

“You and the public also deserve to understand why I called for a vote when I did not have the authority to do so. In the moments after the first clear vote for Vice Chair and during the break that ensued I was under a great deal of political pressure to reverse my vote and I succumbed to that pressure for the remainder of the evening. I am not proud of that series of moments when I placed politics above governing, and deeply regret any public confidence it may have shaken in our normal legislature decision-making processes. I have grown up in this community and served capably in elected office for 14 years and I believe citizens of all perspectives have come to know me as someone who does not play political gamesmanship, but has held as my guide for decision making the standard of what is best for the common good of the entire community over the long term, not short-term political expediency, and for my straying from that standard I apologize.

“Today I begin the public process to correct my very public error and take full responsibility for the consequences that may follow throughout this year with my colleagues and constituents. I do not believe that one mistaken decision constitutes reason to step aside as your leader or as an elected representative in my district as some have suggested, since the rest of my record as a public official stands as a testament to who I am and who you know me to be. I can only ask for your understanding and will work tirelessly to heal the rifts this error has caused for the remainder of the days that I may be given to do so.

“I will now lay out options for the body to consider to achieve a definitive outcome regarding Vice Chair at a future meeting with all 15 Legislators present.

1. As Jonathan has pointed out: one way to resolve the issue is to suspend the rules of the Legislature (which requires a 2/3rd vote) and to revote. I recommend this option but it may not be attainable.

2. A legislator could declare that a “continuing breach” has occurred, (see pg. 244 (d) Robert’s rules; that I violated a “Fundamental Principle of Parliamentary Law” using the logic that I summarily invalidated a vote and inadvertently set aside a valid election and held another in its place -- and thereby disenfranchised the legitimate votes of 14 people who participated in the valid election, violating the rights of those 14 members by doing so,) and ask me to remedy the breach by vacating my violation. If I do so, that can be appealed and proceed to a vote of the body. It is clear that several Legislators did object to that improper action and were actively seeking such a vehicle at our January 6th meeting, but did not achieve a conclusive method to do so. A “continuing breach” can be noted at any meeting and the action must be corrected. I cannot summarily vacate the improper action, since that would constitute another invalid action, and two wrongs don’t make a right.

3. If any Legislator believes that my calling for a vote after a break is improper, they can move to “rescind” that decision, (elections can only be rescinded at future meetings if malfeasance is determined.)

“While I will do my best to answer any questions, Jonathan has advised us that “any disagreement as to who is or should be the Vice Chair of the Legislature should be resolved by the County Legislature,” and it is my hope that we all can concur with that advice. It is my opinion that the first method for a definitive outcome be undertaken at the next meeting where all 15 Legislators are in attendance, but absent that option occurring, other options are available.

“Thank you again for the courtesy of attending today’s special meeting to allow me to admit to an error of taking an improper action based on our rules, share my strained reasoning for and apologizing for that error, and to outline options for moving forward in a definitive manner”.

Ms. Mackesey spoke to the first option and questioned what the purpose would be for suspending the rules and what the revote would be on. Mr. Koplinka-Loehr said the purpose would be stated at the time the motion to suspend the rules is made.

It was MOVED by Ms. Chock, seconded by Mr. Hattery, to adjourn the meeting at 4:55 p.m.

Ms. Robertson said she is very disturbed by the circumstances of this meeting being called and believes if the intention were for information purposes alone, Mr. Koplinka-Loehr could have sent an email or written press release. She said she informed Mr. Koplinka-Loehr she had a conflict with this meeting and had to cancel an appointment to be in attendance. Ms. Robertson said any further discussion of the substance of this topic or response to Mr. Koplinka-Loehr’s statement, or response to the County Attorney is disrespectful of the two Legislators who could not be in attendance.

Ms. Kiefer said she does not think this body should adjourn without the opportunity to have some commentary on the statement read by Mr. Koplinka-Loehr. She said she does not agree the entire contents of his statement are accurate. Specifically, Ms. Kiefer disputes the statement that it was an “improper action to have a revote on January 6th after recess”. She said it is the Chair’s job to manage voting and part of managing voting, besides calling for the votes correctly, is to announce the results of the vote and what the actual numbers reported by the Chair mean in terms of the action taken. Ms. Kiefer said the only time this was done was after the vote taken after the recess. She said Mr. Koplinka-Loehr announced numbers, but not the result of the vote taken immediately before recess. Ms. Kiefer said it is her opinion that the last action taken was not an error and should stand in terms of parliamentary interpretation. She said she is not saying that she would object at some point to reconsidering everything, but does not think it should be done for the reason Mr. Koplinka-Loehr gave.

Mr. Hattery said he appreciates Mr. Koplinka-Loehr for calling this meeting and said he believes the intent behind calling this meeting was to resolve this issue and allow Legislators to move forward with the business they were elected to do. He said this is clearly a disputed issue among Legislators and the community.

Ms. Mackesey read the following letter submitted by Legislator Shinagawa dated January 14, 2009:

Dear Chairman Koplinka-Loehr,

“I earnestly request that you postpone or cancel the special meeting of the Legislature that you scheduled for January 15, 2009. I am sincerely disappointed that you called this meeting despite your prior knowledge of my schedule conflict. By continuing with this meeting, knowing I could not attend, you disenfranchise me of my rights as a Legislator and representative of my constituents.

“Following a Budget and Capital Committee meeting on January 12, 2009, I informed you that I would not be able to attend any meetings between January 14th and 16th, during which time I will be at a health care symposium in New York City. This is a required, mandatory event for my graduate school program from which I cannot be absent. I am shocked that such an important meeting was called, knowing that the full body could not attend.

“The election for the leadership of the Legislature is one of the most important votes of the year. The leadership guides and drives the agenda of the county, and I care greatly who is at the helm. The decision to hold this vote without my attendance is tantamount to disenfranchisement -- it strips me of my rights to take part in a crucial discussion and decision of the Legislature. If I am reappointed Chair of the Budget and Capital Committee, I will work closely with whoever occupies the leadership in what is likely to be a difficult budget year. I’m appalled that I will not have the ability to voice my opinion and mark my vote on who those leaders will be.

“I am also concerned about why the discussion and decision about the leadership of the Legislature is not occurring during a regularly scheduled, full meeting of the Legislature. Since my election, I have scheduled my life around our Legislature meetings. As recently reported by the Ithaca Journal, I have had perfect attendance in our full Legislature meetings through 2008 and beyond. While you do have the right to call a meeting with only 48 hours notice, such immediacy is unwarranted and unnecessary. When such an important discussion or decision is to take place, it is your duty to make efforts to ensure that all Legislators are able to attend – or that they are given sufficient notice to attend. In fact, you had stated before that if you were to revisit this issue you would find a time when all Legislators could be present. Why has this standard changed?

“In your recent press release, you cited your concern about the public trust as one of the reasons why you called a special meeting. How does calling for a sudden meeting, when an elected representative of the public cannot attend and thus cannot be the voice of his constituents, regain the trust you say may be broken?”

“This meeting must be held at a time and date when all Legislators can participate. I ask you to cancel or postpone this meeting until all Legislators are able to attend. This is a reasonable request”.

Mr. Burbank expressed extreme displeasure for the stated purpose of calling this meeting. While his experience on this Legislature has been brief, it has been his experience that when meetings are scheduled there has been some attempt to explore availability of Legislators. He said this meeting was scheduled when some Legislators indicated their inability to attend without allowing for the suggestion of possible alternatives. Mr. Burbank said while he understands the need to address this and the confusion surrounding the last vote, he does not believe there is any emergency that supports the calling of this meeting.

Ms. Chock said she understands that a mistake can be made and appreciates the statement presented by Mr. Koplinka-Loehr, but now members need time to react to it. Ms. Chock stated she was not part of any secret conversations or improper process or the accepted process for the ways in which this body operates. She urged Legislators to support the motion to adjourn and to not have a discussion without all Legislators being in attendance.

Ms. Robertson said this was a very congenial body when she was elected seven years ago, even when there were deep disagreements about issues. She urged her colleagues to support adjourning the meeting and to protect any mutual respect and trust that may be salvaged from the botched process. She said the work of County government is continuing and there is no reason for urgency to force a discussion of the merits of this when all Legislators cannot be present.

Mr. Proto spoke of the process and suggested that the Rules of the Legislature be reviewed in the coming year for the purpose of identifying what constitutes a crisis, an emergency, and when there is a need to have full attendance by the Legislature.

Mr. Dennis agreed with Mr. Proto’s suggestion that the Rules of the Legislature be reviewed. He does not believe this important meeting should have been called once it was known that all 15 Legislators could not be in attendance.

A voice vote on the motion to adjourn resulted as follows: Ayes – 11, Noes – 1 (Legislator Randall); Excused – 2 (Legislators Shinagawa and Stevenson). MOTION CARRIED.

Adjournment

The meeting adjourned at 5:14 p.m.

Tompkins County Legislature
January 15, 2009

Respectfully submitted by Michelle Pottorff, TC Legislature Office