

APPROVED

**Tompkins County Council of Governments
March 26, 2009
Courthouse Conference Room**

Members Present: T/Ithaca – H. Engman
V/Cayuga Heights – J. Gilmore
V/Lansing – D. Hartill
T/Ulysses – D. Austic
T/Dryden - M. Sumner
T/Caroline – D. Barber
T/Enfield – R. Podufalski
T/Newfield – R. Dolge
V/Trumansburg – D. Nottke
Tompkins County - M. Robertson
T/Danby – R. Dietrich
C/Ithaca – C. Peterson
V/Groton – E. Conger
T/Groton – G. Morey

Municipalities Not in Attendance: V/Dryden, V/Freeville, T/Lansing

Guests: S. Locey, Locey and Cahill, LLC; M. Lynch, J. Mareane, J. Kippola, County Administration; L. Shawley, Town of Danby; M. Koplinka-Loehr, County Legislature; E. Thomas, Town of Ulysses; P. Dougherty, Town of Enfield Deputy Clerk; J. Drake, T/Ithaca; M. Pottorff, Legislature Office

Call to Order

Mr. Barber, Chair, called the meeting to order at 3:02 p.m.

Changes to the Agenda

Mr. Gilmore reported on Steve Locey’s presentation to the trustees of the Village of Cayuga Heights. He said it went well and trustees have asked that this initiative keep moving forward.

Approval of Minutes of February 26, 2009

It was MOVED by Mr. Austic, seconded by Ms. Robertson, and unanimously adopted by voice vote by members present, to approve the minutes of February 26, 2009 as submitted. MINUTES APPROVED.

SMSI Health Insurance Consortium

Mr. Locey said there are three outstanding questions relevant to the municipal cooperative agreement:

1. Issue of the renewal provision that is built into the agreement;
2. Who will have the ultimate authority to approve amendments in the agreement; and
3. The issue of timing for the special meetings to review amendments to the agreement.

Issue of the renewal provision that is built into the agreement

Mr. Locey said the SMSI project attorney (John Powers) has the opinion that to facilitate the process that automatic renewals are legal and the Consortium could move forward with that, although there is a strong legal opinion on the other side stating that the automatic renewal provision is not authorized. Mr. Locey said he had a conversation with the New York State Insurance Department two days ago relative to the agreement. They have been reviewing the agreement and although there is a list

of items that do need to be evaluated and minor modifications made, they did not comment on the automatic renewal. Mr. Locey said the biggest concern is logistics and getting everyone to do so on time if each municipality were to approve it with a resolution every five years. He said 12 municipalities would need to approve it on time in order for the Consortium to continue.

Who will have the ultimate authority to approve amendments in the agreement?

Mr. Locey spoke of amendments to the agreement and said if amendments need approval by all 17 participants, the process could become very cumbersome. He said if a decision involves a critical item, no one on the Board of Directors would make a decision without checking with their governing body to make sure everyone is informed. While he can appreciate the concern of the governing bodies with wanting this to come back for approval, Mr. Locey said that could hamper the operations of the Consortium if approval by the governing body is needed every time a change needs to be made.

The issue of timing for the special meetings to review amendments to the agreement

Mr. Locey spoke concerning timing with regard to automatic renewal. Right now the agreement states September 1 and he said they have no problem amending this to an earlier date as long as there is enough time for the Board of Directors to approve amendments prior to a special meeting between October 3-15.

Mr. Engman said he and the Town of Ithaca attorney don't agree that it is too onerous to go back to a municipality and ask for a renewal; however, municipalities can look at the rates each year and have an opportunity to get out of the agreement. He said while he doesn't think the automatic renewal complies well with how towns are supposed to operate, the Town of Ithaca will not oppose the automatic renewal.

Mr. Locey said in terms of the five-year approval there is not a lot of direct guidance with how these are supposed to renew. The Insurance Department says it makes no sense to have a deadline or date in which the Consortium would cease to operate because they want them to perpetual. Ms. Robertson spoke of her experience with the Recreation Partnership when each change had to be approved by each municipality and said it took a lot of time and work. She stressed the importance of there being a default set in the process that will allow the Consortium to continue. Mr. Locey said at the annual meeting in the fourth year there will be an agenda item about the fifth year renewal along with a reminder about rights and obligations of the participants. He said if there is any issue that any member of the Board of Directors has they should take it back to their legislative body.

Mr. Barber spoke of his experience with NYMIR (New York Municipal Insurance Reciprocal), and said members sign the agreement once as a board and doesn't see the agreement again. However, each year there is an opportunity for members to decide whether they wish to continue membership.

Mr. Gilmore said the Village of Cayuga Heights attorney has advised that both options for renewal are acceptable. The Village Board and the Village Treasurer prefers to vote on the agreement every five years. He said the Village would be agreeable to approving the agreement in the fourth year if that would alleviate some of the concerns.

Ms. Peterson said the City is continuing to review the Agreement and will come back to their April meeting with comments.

Mr. Locey said there is a mechanism built into the agreement to allow for review every five years. The only problem he sees with having a formal process of having every municipality needing to approve the agreement every five years by passage of a resolution is a concern for loss of a 2/3 threshold

that is required to maintain operations of the Consortium. This could happen if enough municipalities had not adopted a resolution in the timeframe necessary.

Ms. Robertson noted the one-year out provision is a protection for municipalities.

A vote to keep the language in the agreement pertaining to automatic renewal to remain the same resulted as follows: Ayes – 12; Noes – 2 (Austic (T/Ulysses), Gilmore (V/Cayuga Heights); Not Present: 3 (V/Dryden, V/Freeville, T/Lansing). CARRIED.

Discussion on amendments to the agreement: whether amendments can be made by the Board of Directors or would need to be done by the body that signed the original agreement.

Mr. Locey said there is less concern over which way the TCCOG wishes to proceed on this because neither option would put the Consortium in jeopardy of ceasing to operate. There is, however, also logistical concerns if the automatic renewal provision is not chosen.

Mr. Gilmore said the Village of Cayuga Heights is comfortable with amendments being made at the Board of Directors level.

Mr. Engman said he has stronger concerns over this because this is an agreement among municipalities and he doesn't think authority to make agreements can be delegated to a second party (i.e. Board of Directors). He thinks the document will have very few changes but those changes should go back to the municipalities for approval.

Mr. Barber said NYMIR bylaw adjustments go through the Board of Directors but amendments to the agreement are required by each subscriber.

Mr. Austic said if the contract is amended each board should have to approve the amendments. If amendments are not approved by municipalities, an amended agreement that was never approved by municipalities would be in place.

A vote to allow amendments to the agreement to be made by the Board of Directors and not be required to go back to municipalities resulted as follows: Ayes – 0; Noes – 14; Not Present: 3 (V/Dryden, V/Freeville, T/Lansing). FAILED. Amendments will go back to participants.

The issue of timing for the special meetings to review amendments to the agreement.

Mr. Locey summarized that the purpose of amending this date would be to allow municipalities to react, evaluate and decide whether they wanted to stay or withdraw from the Consortium by the October deadline date. Mr. Engman said he would support either July 1 or August 1st; Ms. Robertson recommended July 1st.

It was MOVED by Mr. Engman (T/Ithaca), seconded by Mr. Austic (T/Ulysses), to change Section P 2c changing September 1 to July 1 and a vote resulted as follows: Ayes – 14, Noes – 0, Not Present – 3 (V/Dryden, V/Freeville, T/Lansing). MOTION CARRIED. Mr. Locey said TCCOG will be presented with a revised draft Agreement that will incorporate all of the changes voted upon today.

Lastly, Mr. Locey said the NYS Insurance Department has recommended some minor language changes in terms of Article 47. They commented on the weighted voting model and questioned why each entity isn't given 1 vote. Mr. Locey said he and the attorney still believe weighted voting in this model is acceptable because of the varied range and disparity in employer sizes. The Insurance Department was provided with an explanation and additional work may be needed in this area.

Mr. Gilmore said there was concern by the Village of Caygua Heights lawyer that there is a strong potential that this would be disenfranchising the union by not allowing them a vote on the Board of Directors as health insurance is a bargaining item in their contract.

Ms. Peterson referenced the following language in the Agreement and said concerns that may come forward from the City:

“Page 5 – Item E-6: Subject to the voting and quorum requirements set forth in this Agreement, the board is authorized and/or required to take action on the following matters:

6. To select and approve benefits provided by the Plan(s) including the plan document(s), insurance certificate(s), and/or summary plan description(s), a copy of the Plan (s) effective on the date of this Agreement is incorporated by reference into this Agreement.

She said there is concern that the Board would have options to choose different plans than what would be in already-negotiated contracts. A question has also been raised as to who has the power to resolve conflicts. Mr. Locey said with regard to plans of benefits a similar process will exist. The initial goal is to match what everyone currently has but will provide some options going forward in terms of insurance models. Right now everyone is somewhat constrained by what the insurance company will allow a municipality to purchase. The Board of Directors will make sure plans are available to negotiate toward. He said he will look into the question about who would have power to resolve conflicts.

Ms. Robertson questioned how the weighted voting would work. Mr. Locey explained his interpretation – that it would happen as an action item at the Board of Directors (BOD) level and two or more members of the BOD would ask to bring forward the weighted voting model.

Ms. Robertson noted the County has approximately 1,000 employees covered, the City has approximately 600, the Town of Ithaca has 60, and everyone else has fewer than 50. She pointed out what the smaller municipalities have to gain by being part of a larger group.

Ms. Robertson spoke of weighted voting and said there are other boards of supervisors who use it. Mr. Locey said he believes it is just unique to the Insurance Department who aren't typically involved in municipal-type of issues; he stressed that doesn't mean it won't be approved and he and Mr. Powers will continue to push it forward.

Ms. Sumner acknowledged the importance of County and City involvement and suggested having three Board members to initiate the weighted voting model. Ms. Robertson said she could not support that.

Appointment(s)

Mr. Barber distributed copies of the County advisory board vacancy list and encouraged members to communicate openings to constituents within their municipality.

Mr. Barber said an issue raised at a previous meeting was the appointment of Dan Walker to the County's Emergency Planning Committee. Mr. Engman said the Town of Ithaca is in the process of reorganizing its Public Works Facility and will be integrating its engineering into Public Works. As a result of time constraints, Mr. Walker and Mr. Engman believe it is now time to discontinue being the TCCOG representative to that group. Further discussion was needed on this and the topic will be placed on the next agenda. Mr. Shurtleff and Ms. Nelson will be invited to the next meeting to discuss this with the Committee.

Community Foundation of Tompkins County

George Ferrari, Executive Director, distributed copies of the 2007 Annual Report. The new report will be released at the Annual meeting on May 12 at 5 p.m. at the Ithaca Town Hall. Carol Kammen, Tompkins County Historian, will be speaking at that event.

Mr. Ferrari said the Community Foundation has been in existence for nine years and serves all communities in Tompkins County. The Foundation is a public charity and its goal is to partner with individual donors, government, community members, business, and other associations or people to use three types of resources to improve the quality of life of people in Tompkins County and solve problems.

Information – they scan the environment to look at best practices, needs, the outcome of activities and providers within the community;

Relational resources – they convene groups of people to find ways to operate more effectively and efficiently;

Financial resources – from the beginning through the end of 2008 they will have distributed over \$2.2 million in over 770 grants (investments in the community). When these funds are granted there is an expectation of results and the ability to evaluate them.

The Foundation is looking to improve its ability enter into strategic partnerships to increase, share, and expand informational and relational resources and want to be seen as a partner and effective in all parts of Tompkins County. Mr. Barber said if there are projects within any member's community, this is an opportunity to make a connection with resources.

TCCOG Special Meeting on Gas Drilling

Mr. Barber reported Kimberly Rea and Mark Milspaugh will be in attendance at the special TCCOG meeting on Monday, March 30 at 7 p.m. at the Ithaca Town Hall to talk about Marcellus Shale and what options are available to municipal governments.

Next agenda

Ms. Robertson suggested TCCOG look at the proliferation of requests for cell towers; discussion of whether we should seek to develop a countywide plan that tells companies where we would like towers located. Mr. Engman, Ms. Robertson, and Ms. Peterson will take the lead on this.

Emergency Planning Committee appointment
Animal Control Contracts

Adjournment

The meeting adjourned at 4:35 p.m.

Respectfully submitted by Michelle Pottorff, TC Legislature Office