

Minutes
Tompkins County Council of Governments
Thursday, February 23, 2011 - APPROVED
Scott Heyman Conference Room

Members Present: (11 municipalities)

T/Caroline – D. Frongillo, I Weiser	V/Groton – B. Conger
T/Danby – R. Dietrich	C/Ithaca – S. Myrick, J.R. Clairborne
T/Newfield – R. Driscoll	Co./Tompkins – M. Robertson (excused at 3:30 p.m.)
T/Lansing – K. Miller	T/Ithaca – H. Engman
T/Ulysses – R. Marino (arrived at 3:36 p.m.), E.Thomas	T/Dryden – M. Sumner (arrived at 3:35 p.m.)
	T/Enfield – R. Barriere

Municipalities Not in Attendance: (6 municipalities) V/Dryden, V/Freeville, V/Lansing, V/Trumansburg, V/Cayuga Heights, T/Groton

County Staff: J. Mareane, M. Lynch, P. Younger, County Administration; A. Hendrix, Director of the Youth Services Department; J. Johnson, Youth Services Department

Guests: D. Barber, Town of Caroline Supervisor; J. Leifer, Town of Dryden and member of the Cable Committee; A. Greene, Director, City of Ithaca Youth Bureau; L. Vance, Deputy Director, City of Ithaca Youth Bureau; M. Bianconi, Vice Chair, Tompkins County Youth Services Board and Director of the Town of Dryden Youth Recreation
L. DiPietro, Fingerlakes Community News; M. Pottorff, Legislature Office

Call to Order

Mr. Driscoll called the meeting to order at 3:04 p.m.

Changes to the Agenda

The following items were added to the agenda:

Discussion of the Town of Dryden court case; and
Resolution In Support of Maintaining Dedicated Funding for Public Transportation Funding in the Surface Transportation Legislation

Approval of Minutes – January 26, 2011

It was MOVED by Ms. Robertson, seconded by Mr. Frongillo, and unanimously adopted by voice vote by members present, to approve the minutes of January 26, 2012. MINUTES APPROVED.

Intermunicipal Recreation Partnership

Ms. Bianconi said the mission of the Recreation Partnership is to jointly plan, finance, provide, and coordinate shared recreation services for youth of all ages and skill levels that supplement and compliment those that are offered by localities and the private sector. By collaborating and pooling resources the Intermunicipal Recreation Partnership offers a wider and more affordable array of recreational programming than any single government can offer on its own. She said the Recreation Partnership has been very successful, is going into its 18th year, and is one of the most unique partnership of its kind in the country. As the Youth Recreation Director in Dryden in addition to being Vice Chair of the Youth Services Board, she spoke to how well it has functioned especially with budgets that are getting smaller. She said the Town of Dryden's participation in the Recreation Partnership is critical to the residents of Dryden.

Ms. Vance distributed and reviewed summary information of participation rates in the Recreation Partnership broken down by municipality. In 2011 there were 4,853 in the program; the unduplicated count of individuals who participated in a program was 3,670. The kids participating are coming from across the County and many programs fill quickly or even have waiting lists.

Ms. Johnson said the Youth Services Board is recommending the existing contract be extended for another five years. She distributed invitations to members to the Annual meeting that will be held on March 28th. At that meeting there will be an overview of the program as well as a discussion of the 2013 agreement.

Ms. Robertson referred to the participation rates and noted the Town of Lansing had 101 unduplicated registrants and asked what fee applied to non-member participants. Ms. Johnson said non-members pay double the fee. She said she had been asked by parents if the Town could join and calculated the Town's cost would be approximately \$800 per year.

Discussion – Town of Dryden Court Ruling

Ms. Thomas reported the Town of Dryden was successful in its case to ban against drilling. She was told by Susan Brock that Judge Rumsey was constrained by previous law and since the Middleton case has not been decided it is hoped the Judge for that case will take into consideration the 29-page summary that Judge Rumsey wrote. Ms. Robertson said the Town of Dryden is expecting an appeal but it is unclear yet if the ruling will be appealed. She said the Town of Dryden has been offered pro-bono legal services from Earth Justice.

Mr. Dietrich said there is some talk about putting together a mutual defense fund. Ms. Weiser spoke of the court ruling and said although the ruling may be appealed Anschutz may file a Takings claim.

Ms. Weiser said Anschutz has had large parcels in the Shindagin Hollow area and leases have expired and Anschutz has not renewed those leases. She thinks it may be possible they are not going to spend money on a lawsuit. She doesn't think there is any merit to a Takings claim.

Ms. Miller reported that during a recent visit to Lansing, Senator Nozzolio talked about efforts to get drilling banned from the Finger Lakes. He spoke of how water from the Finger Lakes is the water for all municipalities and believes that with enough support drilling can be banned from this area. She will provide members with a sample resolution in support of Senator Nozzolio's efforts. Ms. Pottorff will distribute a copy of the resolution recently adopted by the County to all members.

Ms. Marino arrived at 3:26 p.m.

Changes in Public Officer's Law

Ms. Weiser said Bob Freeman, Executive Director of the Committee on Open Government, will be coming to speak with the Cornell Law School in April and has offered to meet with municipalities. Members were interested in meeting with Mr. Freeman to discuss and ask questions about recent changes in the Public Notification Law. Ms. Weiser will schedule a meeting and will let members know the date.

Rifle Use for Big Game Hunting

Ms. Thomas spoke of a resolution being considered by the County Legislature requesting New York State to enact legislation that would allow rifle hunting in Tompkins County. She said her late husband was an avid hunter and hunting is a subject she is familiar with. She stated this is not an anti-hunting issue or a class issue but is a safety issue because rifles have a much longer range of distance for a bullet to travel. Shotguns have a much less shot distance than a rifle. She asked what the objective of the resolution is and said if the argument is to keep the deer population under control this action would be contrary to that. Ms. Thomas said she currently allows hunting on her property but would be less inclined to do so if it involved rifle hunting because hunting takes place close to her home and she would be uncomfortable with that. Cortland and Schuyler counties allow rifle hunting and she believes if hunters want to be able to use rifles, there is available land for them to do so in neighboring counties. The current law has been in effect for at least 30 years and does not believe there is any reason to change it. She encouraged others who have opinions on this to let the County Legislature know.

Ms. Thomas said that the County make TCCOG aware of issues under discussion that may impact municipalities.

Ms. Sumner arrived at 3:35 p.m.

Report from the Gas Drilling Task Force

Members congratulated Ms. Sumner and the Town of Dryden on their success in the recent court case to ban drilling in the Town.

Ms. Thomas said she has received a lot of appreciation from other municipalities from across the State for the work Tompkins County has done on the issue of drilling and many other areas are using the work done in Tompkins County as resources. She said the Task Force continues to need volunteers.

Ms. Thomas reported the White Paper on Taxation should be released soon and will be the topic of the first series of discussions that will take place. This will be held on March 22nd at 5 p.m. at the Borg Warner Room at the Public Library. Mr. Barber and Jay Franklin, Tompkins County Director of Assessment, will be speaking. The next meeting will be on Assessment and Land Values and the third will be about pipelines; she will let members know when dates are scheduled for these. She announced an event will take place in Newfield "When home becomes a gasfield" on March 19th at 7 p.m. at the Newfield Fire Hall. This will be about how drilling changed the lives of current and former residents of Bradford County.

Ms. Thomas spoke of trucks that have been spreading brine on State roads in the County and reported on information she has found out about this and commended Mr. DiPietro of the Fingerlakes Community News for a recent article he wrote.

Bill Koppel, the USGS Environmental Scientist who is on the Technical Committee for the Department of Transportation, explained through a recent communication that brine is more efficient, cheaper, and easier to apply, and dries on the road and prevents ice from forming on roads. He stated that some brine is manufactured from rock salt or is produced brine that is from drilling products but not in the Marcellus. The produced brine contains natural metals and the Department of Transportation is aware metals are in the produced brine and have given their approval to this. Ms. Thomas said Cornell is looking into the make-up of that brine. Mr. Koppel has also stated that none of the brine being used is coming from the vertical wells that are being drilled and hydrofracked now. She questioned what happens if the produced brine is from the Marcellus and horizontal hydrofracking and questioned whether municipalities would be notified and was told the Materials Division of the DEC makes that determination. She said it would be helpful to know who tests the brine, how often it is tested and how

municipalities would find information out. There are a number of people who are looking at this, including Steve Penningroth of the Community Science Institute. He has volunteered to do private testing on the brine and has done research on what the SGEIS says about brine spreading and it says none of that will be accepted as a BUD (Beneficial Use Determination) until they have evaluated the naturally or occurring radioactive materials or norms.

Ms. Thomas suggested municipalities send a letter expressing concerns; the Task Force will draft and circulate a letter that municipalities can consider sending.

Mr. Engman said there is a lot of different information circulating about this. He thinks there needs to be a comprehensive answer from the Department of Transportation on what it's policy is and what is executed from within the policy. Ms. Weiser suggested a formal Freedom of Information Law request be made instead of relying on informal conversations. An update will be provided at the next meeting.

Ms. Weiser said at the previous meeting she spoke about having contact with the Sustainable Markets Foundation and that they were willing to be a fiscal sponsor and they require five percent administrative fee. As suggested by Ms. Robertson, she brought this to the Task Force and met with Mr. Dietrich, Joe Wilson, and Ken Zesserson. The discussion resulted in the belief that it would be easier to manage and promote if it were centralized and managed as its own entity and suggested going with Sustainable Markets. They recommended that there be an administrative board that would include three supervisors and three "fractivists", and would create their own steering committee that would organize and fundraise. She said one point that was raised was if it is going to be a stand-alone thing, that it would not need approval by any group. Another point raised was that it might be a conflict of interest to have a town supervisor on the committee. Another meeting will be held of the same group to discuss these additional points that have been made. The purpose of funds raised would be to help local governments in a variety of ways including lawsuits, defray legal expenses that may be incurred drafting items such as road use ordinances, or other needs identified by the group. Ms. Sumner suggested that the group bring a policy back to TCCOG or municipalities for endorsement. Ms. Weiser will provide an update at the next meeting.

Continued Discussion on Dryden's Ban on Drilling

Ms. Sumner said two things she would like to see more media coverage on are:

- The direction the court took and the decision was that the State never intended to preempt land-use authority;
- The Town of Dryden has permissive zoning, which clearly says if the use is not specifically permitted then it is prohibited.

She spoke of the Chesapeake presentation and said one thing that caught her attention was the statement that 30% of the pre-tests of water supplies show that they do not meet minimum standards. She suggested finding a way to make pre-testing available to homeowners so this statement can never be made. She said she is also interested in the DEC presentation about the SGEIS that they are trying to create ways for towns to have input into the permitting process. She said it would be possible for a town to ask that permitting proceed in a way that permits drilling to proceed on one pad at a time because in many small towns drilling on even one pad has a community impact larger than it can bear.

Ms. Sumner reported Delta came to the Town and conducted a presentation about the road-use program along with Danby and Newfield. There was a person in attendance from the Institution for Asset Management to observe the Delta presentation because it is very comprehensive and he was hoping it

might become a Statewide model. The individual had concerns about the County's approach and will be following up with Mr. Mareane.

Report on Government Efficiency Grant

Mr. Barber reported the grant application needs to be submitted by March 21st; he is working with Paula Younger in County Administration on proceeding. A meeting was held and had representation from many municipalities. He said there has been a discussion with Bill Mobbs who was the County's Public Works Commissioner for several years. The minimum grant award is \$25,000; Ms. Younger said the grant requires a ten percent match of the total award and a formula for payment of the match would have to be agreed upon by all participating municipalities. The grant application also requires each participating municipality to approve becoming a participant in the form of an adopted resolution by the municipal body. Ms. Younger was asked to circulate a draft resolution to members.

Report from Cable Subcommittee

Mr. Engman said the Committee met and various groups are meeting and have been assigned various tasks to move the project forward. He said they think it is time to get a formal expression of interest by municipalities and asked that there be a resolution of interest approved by interested municipalities. He noted the resolution would only be an expression of interest and participation in any negotiations would depend on the final structure. Mr. Leifer is working on a resolution and will circulate it to municipalities when it is ready.

Update on Cell Towers

Ms. Pottorff reported the City Attorney's Office has been in contact with Silverberg Zalentis and work will be proceeding.

Ms. Sumner reported at the Association of Towns Conference she attended a presentation entitled "The Wireless Evolution in Your Town". Although the panel was primarily industry representatives, she said they have developed a model law and a lot of good information was included in the presentation about the need for increased density of towers and aesthetics of towers. She will provide members with a copy of the information prior to the next meeting.

Resolution No. 001-2012: In Support of Maintaining Dedicated Funding for Public Transportation Funding in the Surface Transportation Legislation

MOVED by Mr. Frongillo, seconded by Mr. Engman, and unanimously adopted by voice vote by members present.

WHEREAS, the provisions in the recently unveiled House bill H.R. 3864, the federal American Energy and Infrastructure Jobs Financing Act, would eliminate dedicated federal fuels taxes for public transit and create long-term uncertainty for public transportation funding for the first time in three decades, and

WHEREAS, since 1983, nearly half of all public transportation funding has been provided from the federal motor fuels tax dedicated to the Highway Trust Fund, and

WHEREAS, this funding structure has successfully provided highway and transit programs with secure, dedicated revenues and has allowed Tompkins Consolidated Area Transit, Inc. (TCAT, Inc.) and public transit systems across the country to create jobs, including those for the bus manufacturing industry in New York State, and

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WHEREAS, under the proposed change, public transit funding would receive a one-time appropriation with no funding for public transportation after 2016 and would create uncertainty for TCAT, and

WHEREAS, as TCAT looks to expand capacity during record ridership of nearly 4 million annual trips, this change will have dire consequences for the thousands of people in Tompkins County who rely on public transit, now therefore be it

RESOLVED, That the Tompkins County Council of Governments strongly opposes H.R. 3864 and asks members of Congress to reject it in their final vote.

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Adjournment

The meeting adjourned at 4:20 p.m.

Respectfully submitted by Michelle Pottorff, TC Legislature Office