

(PLEASE NOTE: Full Resolutions are attached following minutes)

**MINUTES
Herkimer County Legislature
Fourth Quarter – First Day
Wednesday, October 1, 2014
2:00 p.m.**

The Second Quarterly Session of the Herkimer County Legislature was called to order by Chairman Vincent Bono at 2:00 p. m.

Chairman Bono called on former Chairman and County Legislator Leonard Hendrix, to lead the Legislature in the Pledge of Allegiance.

Mr. Bono requested everyone to remain standing for a moment of silence in recognition and honor of all the current and past veterans of Herkimer County.

Roll Call: Quorum present, the following answering the roll:

Present: Luppino, Rose, Schrader, Wellington, Johnson, Stephens, Hyde, Brezinski, Manno, Smith, Bono, Ackerman, Peplinski, Korce, Russell, Shaw, Weakley (17).

Absent: None.

Pursuant to Rule 8 of the Rules of the County Legislature, Chairman Bono asked if there were any objections or corrections to the minutes of September 10, 2014. There were none, and the Chairman ordered them approved.

Pursuant to Rule 11, Chairman Bono opened the floor for public comment. Chairman Bono called for a motion to suspend Rule 11 to allow for comment by all residents who have signed in to speak beyond the 30 minute period for comment, with a time limit of 3 minutes each. Mr. Russell made the motion, seconded by Mr. Johnson. Mrs. Rose objected and County Attorney Malone advised that pursuant to the Rules of the Legislature there can be an appeal of the decision of the Chair which can be decided by a majority vote of the Legislature. County Attorney also referred to Rule 10 which stated that none of the rules of order shall be suspended except by unanimous consent. After further discussion, Mr. Korce made a motion, seconded by Mr. Shaw, to sustain the ruling the Chair. The motion was approved by voice vote:

Ayes: (16).

Against: Rose (1).

Absent: None.

The following individuals spoke on the subject of Jail/P & C Site: Carl Streeter, Charles Patterson, Donna Cool(submitted a petition of 435 signatures in opposition of the P & C site and asking for a public referendum), Bridget McKinley, Gary Hartman, Jim Hunter, Mark DiGeorgio, Ruth Sands, Joe Chilelli, Don Bronson, Katherine Nichols, Bill Wiliczka, Harold

Stoffolano, Grace Decker, Donna Merryman, Kenneth Wiernicki, Sharon Riesel Oldfield, Larry Daley, Richard A. Souza, Leonard Hendrix. (Note: Carl Streecher, Charles Patterson, Bridget McKinley, Katherine Nichols and Leonard Hendrix submitted their written comments to be filed with the Legislature).

Chairman Bono stated that the communications received by the Legislature and the committees to which they were referred were as listed on the agenda and asked if any member of the Legislature requested mention of any particular communication. Mrs. Rose requested Resolution No. 307 be read.

No. 280 – A communication was received from the State Records and Law Bureau advising of receipt and filing of Local Law No. 3 for 2014. Placed on file.

No. 281 – A communication was received from the Director of Community Services advising of August activities update. Placed on file.

No. 282 – A communication was received from the Oneida-Herkimer Solid Waste Authority submitting request for proposals for public review until October 1, 2014.

No. 283 – A communication was received from the Soil and Water Conservation District submitting minutes of 8/12/14. Ordered filed.

No. 284 – A communication was received from the E & T Director requesting approval of additional office space permit agreement with Mary Imogene Bassett Hospital. Referred to the Committee on County Planning and Development and the Committee on Ways and Means.

No. 285 – A communication was received from the Budget Officer/Purchasing Agent requesting budget amendment in connection with receipt of STOP-DWI Foundation grant. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

No. 286 – A communication was received from the County Treasurer submitting report of Cancelled and Rejected Taxes. Referred to the Committee on Ways and Means.

No. 287 – A communication was received from the Commissioner of Social Services requesting contract with Catholic Charities in connection with provision of non-residential domestic violence services. Referred to the Committee on Human Resources and the Committee on Ways and Means.

No. 288 – A communication was received from the Chairman of the Legislature making appointment and reappointments to Office for Aging Advisory Council. Referred to the Committee on Human Resources.

No. 289 – A communication was received from the Budget Officer submitting request for budget amendment in connection with Homeland Security Grant for Sheriff. Referred to the Committee on Public Safety and Emergency Management and the Committee on Ways and Means.

No. 290 – A communication was received from the Sheriff requesting approval and e-signature of receipt of Homeland Security Grant under Law Enforcement Terrorism Prevention Program. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

No. 291 – A communication was received from the STOP-DWI Coordinator requesting approval of State Highway Safety Program Grant. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

No. 292 – A communication was received from the County Highway Superintendent requesting increase in appropriation for North Creek Road Rehabilitation Project

No. 293 – A communication was received from the County Property Agent advising of default of bidder on In Rem property and recommending acceptance of next lowest bidder. Referred to the Committee on County Properties.

No. 294 – A communication was received from the County Superintendent requesting approval of capital construction project. Referred to the Committee on Highways.

No. 295 – A communication was received from the Budget Officer advising of receipt of bids for sale of surplus ammunition.

No. 296 – A communication was received from the Director of Probation requesting permission for sale of surplus ammunition no longer necessary for public use. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

No. 297 – A communication was received from the Budget Officer requesting establishment of accounts and transfers in connection with Board of Elections grants.

No. 298 – A communication was received from the Personnel Officer requesting contracting connection with on-going litigation involving Workers' Compensation Plan. Referred to the Committee on Ways and Means.

No. 299 – A communication was received from the Budget Officer requesting budget amendment in connection with receipt of Criminal Alien Assistance Program. Referred to the Committee on Public Safety/Emergency Management and the Committee on Ways and Means.

No. 300 – A communication was received from the Director of the Office for Aging requesting renewal of contract to provide services to clients of Senior Network Health. Referred to the Committee on Human Resources and the Committee on Ways and Means.

No. 301 – A communication was received from the Budget Officer advising of reimbursement fees under renewal contract between Office for Aging and Senior Network Health. Referred to the Committee on Human Resources and the Committee on Ways and Means.

No. 302 – A communication was received from the Budget Officer requesting budget amendment in connection with Lead Poisoning Prevention Program. Referred to the Committee on Human Resources and the Committee on Ways and Means.

No. 303 – A communication was received from the Commissioner of Social Services requesting contract with Catholic Charities for provision of services under the TREATY Program. Referred to the Committee on Human Resources and the Committee on Ways and Means.

No. 304 – A communication was received from the E & T Director requesting approval for License Agreement with State of New York. Referred to the Committee on Ways and Means.

No. 305 – A communication was received from the E & T Director requesting approval of Herkimer-Madison-Oneida Workforce Investment Act Local Plan for Program Year 2014-2015. Referred to the Committee on County Planning and Development and the Committee on Ways and Means.

No. 306 – A communication was received from the Director of Real Property Tax Services Agency submitting State Board established equalization rates to be used in apportionment of 2015 County Tax Levy. Referred to the Committee on Ways and Means.

No. 307 – A communication was received from the County Attorney advising of the receipt of Summons and Complaint. Referred to the Committee on Ways and Means.

No. 308 – A communication was received from the Director of Public Health requesting two part-time Registered Nurse positions under the Preschool Program. Referred to the Committee on Human Resources and the Committee on Ways and Means.

No. 309 – A communication was received from the Oneida-Herkimer-Solid Waste Authority submitting minutes of 6/16/14 and recently adopted resolutions. Placed on file.

No. 310 – A communication was received from ProAct, Inc. submitting report of Herkimer County Discount Prescription Card for September. Placed on file.

No. 311 – A communication was received from Capital District OTB submitting Financial Report for June, 2014. Placed on file.

No. 312 – A communication was received from the County Treasurer advising the County Clerk to file and public the audit report. Placed on file.

Pursuant to Rule 6, Chairman Bono then proceeded with Reports of Standing Committees. There were no reports.

Chairman Bono stated that prior to the action on Resolution No. 235 there would be statements allowed from both the County's counsel and the Village's counsel. Mr. Tom West of the West Firm, the County's outside counsel, presented information on the remand from the

Appellate Division, Fourth Department. He explained the issue that is before the court, gave a brief history on the proposal to build a new county correctional facility and explained the Monroe County balancing factors that can be applied for review by the court. Mark Kukuvka, from LaBella Associates, the County's retained architect also spoke on the issue of the siting for the New County Correctional Facility. Michael Longstreet, the Village of Herkimer's retained counsel, spoke on behalf of the Village and its position on the litigation, as well as other litigation the Village is involved in with the County. He discussed the issue of the balancing test as it is applied to the siting of the proposed new county correctional facility.

On motion of Mr. Weakley, seconded by Mr. Peplinski, Report and Resolution No. 235 of the Committee on Public Safety and Emergency Management determining that the siting and development of the New County Correctional Facility at the P & C site is immune from the zoning and land use requirements of the Village of Herkimer was handed up; Mrs. Rose made a motion, seconded by Mr. Brezinski, to table the resolution. The motion was defeated by the following roll call vote:

For: Rose, Schrader, Brezinski, Korce (4).

Against: Luppino, Wellington, Johnson, Stephens, Hyde, Manno, Smith, Bono, Ackerman, Peplinski, Russell, Shaw, Weakley (13).

Absent: None.

After further discussion Resolution No. 235 was voted on and adopted by roll call vote:

For: Luppino, Wellington, Johnson, Stephens, Hyde, Manno, Smith, Bono, Ackerman, Peplinski, Russell, Shaw, Weakley (13).

Against: Rose, Schrader, Brezinski, Korce (4).

Absent: None.

At 4:07 p.m. Chairman Bono called a short recess.

At 4:15 p.m. Chairman Bono called the Legislature back in session.

On motion of Mr. Smith, seconded by Mr. Shaw, Report and Resolution No. 236 of the Committee on Human Resources confirming appointment and reappointments to the Herkimer County Office for Aging Advisory Council was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None.

Absent: None.

On motion of Mr. Smith, seconded by Mr. Ackerman, Report and Resolution No. 237 of the Committee on Human Resources and the Committee on Ways and Means authorizing

renewal of contract with Senior Network Health was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None. Absent: None.

On motion of Mr. Russell, seconded by Mr. Weakley, Report and Resolution No. 238 of the Committee on Ways and Means adopting equalization rates was handed up; voted on and adopted by roll call vote:

For: Luppino, Rose, Schrader, Wellington, Johnson, Stephens, Hyde, Brezinski, Manno, Smith, Bono, Ackerman, Peplinski, Korce, Russell, Shaw, Weakley (17).

Against: None. Absent: None.

On motion of Mr. Russell, seconded by Mr. Korce, Report and Resolution No. 239 of the Committee on Ways and Means relating to canceled taxes and rejected taxes was handed up; voted on and adopted by roll call vote:

For: Luppino, Rose, Schrader, Wellington, Johnson, Stephens, Hyde, Brezinski, Manno, Smith, Bono, Ackerman, Peplinski, Korce, Russell, Shaw, Weakley (17).

Against: None. Absent: None.

On motion of Mr. Ackerman, seconded by Mr. Peplinski, Report and Resolution No. 240 of the Committee on County Planning and Development and the Committee on Ways and Means approving Herkimer-Madison-Oneida Workforce Investment Act Local Plan for was handed up; was voted on and adopted by voice vote:

For: All ayes (17).

Against: None. Absent: None.

On motion of Mr. Peplinski, seconded by Mr. Stephens, Report and Resolution No. 241 of the Committee on County Planning and Development and the Committee on Ways and Means authorizing additional office space permit agreement with Mary Imogene Bassett Hospital d/b/a Bassett Medical Center at the Working Solutions Career Center was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None. Absent: None.

On motion of Mr. Smith, seconded by Mr. Johnson, Report and Resolution No. 242 of the Committee on Human Resources and the Committee on Ways and Means amending budget

in connection with funding for Childhood Poisoning Prevention Screening Services was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None. Absent: None.

On motion of Mr. Smith, seconded by Mr. Hyde, Report and Resolution No. 243 of the Committee on Human Resources and the Committee on Ways and Means amending Resolution No. 280 of 2013 adjusting wages for hourly employees was handed up; voted on and adopted by roll call vote:

For: Ayes (14).

Against: None. Absent: Schrader, Ackerman, Shaw (3).

On motion of Mr. Stephens, seconded by Mr. Johnson, Report and Resolution No. 244 of the Committee on County Properties amending Resolution No. 208 of 2014 approving sale of parcels acquired by In Rem Tax foreclosures was handed up; voted on adopted by roll call vote:

For: Luppino, Rose, Schrader, Wellington, Johnson, Stephens, Hyde, Brezinski, Manno, Smith, Bono, Ackerman, Peplinski, Korce, Russell, Shaw, Weakley (17).

Against: None. Absent: None.

On motion of Mr. Hyde, seconded by Mr. Peplinski, Report and Resolution No. 245 of the Committee on Public Safety/Emergency Management and the Committee on Ways and Means awarding bid for sale of surplus ammunition was handed up; was voted on and adopted by voice vote:

For: All Ayes (17).

Against: None. Absent: None.

On motion of Mr. Hyde, seconded by Mr. Shaw, Report and Resolution No. 246 of the Committee on Administration/Veterans' Affairs and the Committee on Ways and Means establishing accounts and transferring funds in connection with Board of Elections accounts was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None. Absent: None.

On motion of Mr. Russell, seconded by Mr. Shaw, Report and Resolution No. 247 of the Committee on Ways and Means approving agreement in connection with on-going litigation

involving Herkimer County Workers' Compensation Plan was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None.

Absent: None.

On motion of Mr. Stephens, seconded by Mr. Hyde, Report and Resolution No. 248 of the Committee on Public Safety/Emergency Management and the Committee on Ways and Means accepting grant and amending budget in connection with STOP-DWI funding was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None.

Absent: None.

On motion of Mr. Shaw, seconded by Mr. Smith, Report and Resolution No. 249 of the Committee on Human Resources and the Committee on Ways and Means accepting grant and authorizing contract in Department of Social Services for Non-Residential Domestic Violence Program was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None.

Absent: None.

On motion of Mr. Peplinski, seconded by Mr. Stephens, Report and Resolution No. 250 of the Committee on Public Safety/Emergency Management and the Committee on Ways and Means amending budget in connection with funding in Sheriff's Office was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None.

Absent: None.

On motion of Mr. Hyde, seconded by Mr. Ackerman, Report and Resolution No. 251 of the Committee on Public Safety/Emergency Management and the Committee on Ways and Means accepting grant and amending budget for Homeland Security funding for Sheriff's Department was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None.

Absent: None.

On motion of Mr. Stephens, seconded by Mr. Johnson, Resolution No. 252 of the Committee on Highways amending Resolution No. 238 of 2013 as amended by Resolution No. 126 of 2014 approving Project under Article 6, Section 116 of the Highway Law was handed up; voted on and adopted by voice vote

For: All Ayes (17).

Against: None. Absent: None.

On motion of Mr. Peplinski, seconded by Mr. Smith and Mr. Brezinski, Report and Resolution No. 253 authorizing proposed highway project, authorizing public hearing and contract for appraisal in connection with said project was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None. Absent: None.

On motion of Mr. Shaw, seconded by Mr. Smith, Report and Resolution No. 254 of the Committee on Human Resources and the Committee on Ways and Means authorizing extension of contract with Catholic Charities for TREATY Program was handed up; voted on and adopted by voice vote:

For: All Ayes (17).

Against: None. Absent: None.

On motion of Mr. Peplinski, seconded by Mr. Johnson, Resolution No. 255 of the Committee on Public Safety/Emergency Management designating member of Legislature as a member of the County Jury Board was handed up; discussion was held; was voted on and adopted by voice vote:

For: Ayes (16). Abstain: Smith (1).

Against: None. Absent: None.

On motion of Mr. Hyde, seconded by Mr. Johnson, Resolution No. 256 of the Committee on County Properties concerning cancellation of taxes was handed up; discussion was held; was voted on and adopted by roll call vote:

For: Luppino, Rose, Schrader, Wellington, Johnson, Stephens, Hyde, Brezinski, Manno, Smith, Smith, Bono, Ackerman, Peplinski, Korce, Russell, Shaw, Weakley (17).

Against: None. Absent: None.

On motion of Mr. Hyde, seconded by Mr. Stephens, Resolution No. 257 of the Committee on Administration/Veterans' Affairs and the Committee on Highways requesting state reimbursement for repair of highway system from 2013 Flood was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None. Absent: None.

On motion of Mr. Ackerman, seconded by Mr. Stephens, Resolution No. 258 in Memoriam of R.W. (Bill) Burrows was handed up; voted on and adopted by voice vote:

For: All ayes (17).

Against: None. Absent: None

Chairman Bono stated that pursuant to Rule 6(12) they would proceed with comments by legislators. The following legislators had further comments: John Stephens, Robert Hyde, Dennis Korce.

At 4:37 p.m. on motion of Mr. Manno, seconded by Mr. Wellington, the Legislature adjourned to Wednesday, October 22, 2014 at 7:30 p.m.