

RULES, ENACTMENTS & INTERGOVERNMENTAL RELATIONS COMMITTEE
Held In Room 318
PUTNAM COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512

Members: Chairwoman LoBue and Legislators Albano & Scuccimarra

Monday March 14, 2016
(Immediately Following the Protective Services Meeting beginning at 6:30pm)

The meeting was called to order at 8:06 p.m. by Chairwoman LoBue who requested Legislator Albano lead in the Pledge of Allegiance. Upon roll call Legislator Albano and Chairwoman LoBue were present. Legislator Scuccimarra was absent.

Item #3 - Approval of Minutes – February 9, 2016
Special Rules – February 22, 2016

The minutes were approved as submitted.

**Item #4 - Approval/ Budgetary Amendment 16A011/ Finance/ Board of Elections/
Purchase 3 Voting Machines using Federal HAVA Funds**

Legislator Gouldman questioned where the voting machines would be placed.

Chairwoman LoBue stated they will be placed in various locations. She stated they are being purchased in anticipation of the 2016 election and the four (4) primary elections.

Legislator Albano stated the machines are being purchased using Federal HAVA (Help Americans Vote Act) funds.

Legislated Gouldman questioned if the machines being purchased are the same as the ones that the Board of Elections currently has.

Chairwoman LoBue stated they are the electronic machines; the same type that the County currently uses.

Legislator Albano made a motion to pre-file the resolution; Seconded by Chairwoman LoBue. All in favor.

Item #5 - Confirmation/ Reappointments/ Board of Ethics/ Eldridge & Bickford

Chairwoman LoBue made a motion to pre-file the necessary resolution; Seconded by Legislator Albano. All in favor.

Item #6 - Discussion/ Director of Consumer Affairs/ Felony Complaint & Plea Bargain

Chairwoman LoBue stated she believes it is important to have these public legal documents: the felony complaint and the plea agreement on the agenda so there is no misunderstanding as to what took place. Chairwoman LoBue then read from Item #7 and Item #7a on page 3 of the Plea Agreement & Allocution (attached).

Legislator Nacerino stated this document provides a full understanding of what happened.

Chairwoman LoBue stated the felony complaint provides an outline of what took place. She stated an article was published in The Courier that included information that conflicts with what is in these legal documents. She read a section from the article where the Administration is quoted as saying, "When Mrs. Noel came on board we changed systems and tightened controls. A database was created to ensure that taxpayer's dollars were protected." She again read a section where the Administration is quoted, "This Administration implemented policies and procedures early on in order to have better control over the finances. Those controls were bypassed."

Legislator Nacerino stated it is her understanding that the Department of Consumer Affairs no longer handles cash; all payments are through credit card.

Chairwoman LoBue stated clarification is needed on what procedures were implemented. She stated the Legislature establishes policy within the County, therefore if policy was changed within a department, it should have been brought to the Legislature for approval. She stated it is her understanding that the Director was supposed to vacate the position on December 31, 2015 and is unaware of why the person remained in the position past that date.

Legislator Nacerino stated perhaps the changes made within the Department were as a result of the suspicion surrounding this issue.

Chairwoman LoBue stated it seems that the changes were made a long time ago by the Director. She stated money should be handled by multiple clerical workers rather than one (1) person; the person in charge. She stated her understanding is that the Director assumed the responsibility of handling all the money coming into the Department of Consumer Affairs. She stated when the procedure was changed it should have been brought to the Legislature for approval. She stated there are still a lot of unanswered questions.

Legislator Gouldman stated the Legislature was blindsided by this. He stated he has been approached by constituents asking why the Legislature was not aware that this was going on. He stated he sent a letter to the Chairman of the Audit Committee, Legislator Castellano, requesting that the Committee review the current procedure and discuss what to do moving forward.

Chairwoman LoBue stated there should never be only one (1) person handling money. She stated there should always be several people maintaining several ledgers to ensure there are checks and balances. She stated the procedure was changed by the Director of the department. She stated that she does not understand why this person was allowed to continue working in the place where the crime was committed. She stated the person could have been placed on administrative leave.

Legislator Wright questioned if the documents included on the agenda were from the Attorney General's office.

Chairwoman LoBue stated that is correct.

Legislator Wright referenced Item #7a on page 3 of the Plea Agreement & Allocution (attached) that Chairwoman LoBue read from earlier. He stated here, the amount of \$4,575 is listed, however the next page shows that restitution of \$7,891.49 was paid to the County.

Chairwoman LoBue stated her understanding was that the \$7,891.49 was paid back to the County for the time worked past December 31, 2015. She stated it is also her understanding that the amount of \$4,575 was stolen and at different periods of time was put back or found in the office.

Legislator Albano stated moving forward, something needs to be done to ensure this does not happen again. He suggested having a pre-numbered receipt pad and accepting solely with credit cards and checks as a form of payment; no cash. He stated by handling payments this way will allow every transaction to be tracked should an issue arise.

Chairwoman LoBue stated there was always a process in place with checks and balances; however the process was changed by this Director. She stated upon the change, there was no oversight because there was one (1) person handling all of the money.

Legislator Nacerino stated the Administration may not have been aware of the change in procedure either.

Chairwoman LoBue stated it is her understanding that the Administration was aware of the change. She stated there have also been employees from the Department who have approached the Administration to report that something was going on.

Legislator Wright stated the reconciliation of cash accounts should be something that the annual independent audit should take a careful look at. He stated he is unaware of why this person was permitted to continue working after it had been found that money was misappropriated.

Legislator Castellano stated this situation is terrible and a resolve must be looked into going forward so it does not happen again. He stated everyone is innocent until proven guilty and the document was signed February 22, 2016. He stated perhaps the back pay of the salary to January 1, 2016 was part of the negotiations between her attorney and the County of Putnam. He stated the back pay is not the issue; the issue is ensuring there are clear checks and balances for transactions, especially cash transactions. He suggested having two (2) employees giving a receipt for cash transactions and a computer system.

Chairwoman LoBue stated that was always the procedure until this Director changed it.

Legislator Castellano stated that Director committed a crime and is no longer employed by the County.

Legislator Wright questioned who would authorize the continuance of employment past December 31, 2015.

Legislator Castellano stated the decision was made on February 22, 2016 when the document was signed, not December 31, 2015.

Legislator Wright stated the news article he read stated that employment compensation was being retroactively reimbursed to January 1, 2016. He stated he would like to understand the mechanism under which this happened and prevent it in the future.

Chairwoman LoBue stated the County was aware that there was a problem within the Department of Consumer Affairs. She stated multiple people came forward over two (2) years. She stated the County also has independent auditors.

Legislator Albano stated an auditor only reviews the information that is provided to them. He stated an auditor would not pick up this type of thing. He stated as far as the retroactive payback of salary, the investigation needed to be completed and once it was, the retroactive date was December 31, 2015. He stated in the past, he had heard that the Department of Consumer Affairs was not running at its peak performance.

Chairwoman LoBue stated Legislator Albano has a family member working in the Department of Consumer Affairs.

Legislator Albano confirmed that he has a family member working in that Department. He clarified that his comment about the Department not running at its peak performance was referencing the past, prior to his family member's employment. He stated it is important for the Legislature to make sure the Department is being run correctly.

Legislator Gross stated oversight is key. He stated each department within the County that handles cash must have better oversight. He stated the Legislature was unaware of this issue while it was going on, however now is the time to take action.

Legislator Castellano stated he would like to have a credit card system implemented.

Legislator Albano stated payment by a check provides a trail of the transaction.

Legislator Nacerino stated it is her understanding that the Department of Consumer Affairs no longer accepts cash payments; they use a credit card system.

Legislator Albano stated all receipts should be pre-numbered.

Chairwoman LoBue stated the Department of Consumer Affairs accepts checks and credit cards.

Legislator Addonizio agreed with Legislator Gross's comment regarding the need for more oversight. She questioned how that could be done. She questioned how the Legislature would know if the head of the Department changed the policy.

Chairwoman LoBue stated any policy change is supposed to come to the Legislature.

Legislator Addonizio stated a policy change should come before the Legislature. She questioned how the Legislature would enforce this if the change is done behind the scenes without the knowledge of the Legislature.

Chairwoman LoBue stated Department Heads serve under the Administration. She stated there is no way that a process could be changed within a department without the knowledge of the Administration.

Legislator Wright stated to Legislator Addonizio's point, a Department Head or employee with intentions to commit a criminal act would not identify the process in which they would do so to their superiors. He stated something does need to be done, but it cannot be expected that the Administration would have knowledge of the procedure change.

Chairwoman LoBue stated in the past, there were three (3) people that handled the money rather than solely the Director. She stated there were also separate ledgers as well as numbered invoice books. She stated the Legislature does not micromanage or supervise the Departments on a monthly basis, but the Administration does. She stated moving forward, the Legislature must develop a plan to ensure this does not happen again.

Legislator Gouldman stated he requested that the topic of procedures for cash deposits be discussed in the Audit Committee.

Legislator Nacerino stated she requested that matter be placed on the agenda for the Audit Committee as well.

Legislator Albano stated the Department Heads should be invited to a meeting to review their procedures. He stated this particular incident is one that went undetected and now is the time to move forward and address anything that must be corrected.

Director of the Office for Senior Resources Pat Sheehy stated larger departments, such as the Office for Senior Resources, are audited by the State on a regular basis. She stated the concern surrounding this issue is appropriate; however the Legislature can rest assured that those departments receiving State and Federal dollars are being audited by those municipalities.

Item #7 - Discussion/ Proposed IT Use Policy

a) Correspondence/ New York Civil Liberties Union

Chairwoman LoBue stated a letter was sent from the New York Civil Liberties Union (NYCLU) regarding the possibility of the proposed IT Use Policy violating the first amendment.

Legislator Gouldman stated in the second paragraph of the letter it states "The proposed Putnam IT Use Policy is quite expansive and appears to regulate private communication that occurs outside of work hours and outside of work property." He questioned where in the proposed policy this is outlined.

Legislator Nacerino stated there are times and circumstance that dictate the usage of County property outside of working hours. She stated many employees log onto their email systems from their personal devices. She stated the IT Use Policy should not only be in effect from 9-5, during normal working hours.

Legislative Counsel Clement Van Ross stated this letter has been referred to the County Attorney's office and it would be best to wait for her evaluation. He stated his recollection of the policy is that it will apply to personal devices if County work is being done on them. He stated that is what the NYCLU's main concern should be.

Legislator Wright questioned what stage the review of the proposed policy was in.

Chairwoman LoBue stated the Legislature is reviewing it and the policies of the surrounding Counties were reviewed last month in the Rules Committee.

Legislator Wright questioned if the policy is being voted on soon.

Chairwoman LoBue stated this letter from the NYCLU was sent to the Law Department for their review. She also stated it is her understanding that the policy falls under the Audit Committee and the County Auditor.

Legislative Counsel Van Ross stated the Auditor, along with the Audit Committee was working on policies that were put in place 10-15 years ago. He stated there were aspects that came up which lead to receiving this new policy from the Administration.

Chairwoman LoBue stated the initial discussion surrounding this proposed policy revealed that there are two (2) different policies: one (1) for the Union and one (1) for employees.

Legislator Wright stated there should be no other policy until the policy with the Union is settled.

Legislator Albano stated it was his understanding that the Union had reviewed this proposed policy and accepted it.

Chairwoman LoBue stated she would like to send a letter to the Union requesting their opinion on this proposed policy with the letter from NYCLU attached. She stated she spoke to the woman from NYCLU who sent the letter to the Legislative Office and her overview of the proposed policy was that it was more of a communications policy, rather than an IT policy.

Legislator Wright referenced the current situation that the Federal Government is in with Apple in regards to a County owned cell phone that was provided to a government employee, who then entered their own security password. He stated if a County cell phone is issued, the password to that cell phone should be accessible. He also stated the IT Department should have the ability to periodically ask for a cell phone to check it against the opening security lock password that is set to ensure the phone is accessible at any given time. He stated this is not a simple issue, especially because it appears the phone companies are not providing help.

Chairwoman LoBue stated it is certainly a complicated issue. She stated several years ago, the Town of Carmel had their cell phone records FOILED by the media. She stated once anything is paid for with tax dollars, it is public information.

Legislator Nacerino stated once the IT policy is settled, any employee who is issued a County owned device should have to sign off that they understand the rules and potential situations that come along with its use. She reiterated the point that anything done through the County system or a County device is not confidential and belongs to the County. She stated this policy must be appropriate for the technology of today and it is important to be aware that technology is always changing.

Item #8 - Discussion/ Requiring Fire Sprinklers in Newly Constructed Homes

Legislator Gouldman stated he read an article dated January 12, 2016 in the Journal News referencing a house fire in Southeast and the importance to have fire sprinklers installed in newly constructed homes.

Legislator Wright stated the person who wrote the letter in the newspaper is the president of the National Fire Sprinkler Association.

Legislator Gouldman stated the County is unable to enforce a law such as this on the Towns; however he suggested recommending this be enacted in the Towns.

Chairwoman LoBue questioned who has jurisdiction over a requirement such as installing fire sprinklers into new homes.

Legislator Gouldman stated the County cannot impose this requirement; it is a home rule issue. He stated the County can request that the Towns look into the sprinklers.

Chairwoman LoBue stated a letter could be sent asking the Towns to take a look at these sprinklers, but the County cannot enforce this upon the Towns.

Legislator Nacerino stated she reached out to the Patterson Town Supervisor, Richard Williams regarding this matter. She stated Supervisor Williams was in support of this requirement because there is a decline in volunteers in the fire departments, which results in slower response times. She stated Supervisor Williams was informed by the National Fire Sprinkler Association that the Department of State would not have approved this law. She stated the Building Code Council is interested in a State-wide requirement for sprinklers in newly constructed homes; however the Governor is opposed to such a requirement.

Legislator Albano stated it is his understanding that the State sets the regulation and the Town may enact more regulation if they wish. He stated right now, sprinklers are required in a house that is more than two (2) stories. He stated fire sprinklers could save lives, however along with the requirement for the sprinklers come a higher cost, well water concerns, and more piping.

Legislator Addonizio stated there is a Senate bill that prohibits the requirement of fire sprinkler systems in one (1) and two (2) family dwellings.

Legislator Albano the smoke alarm requirements have been increased, which also aids in saving lives.

Item #9 - Discussion/ Non-for-Profits/ Acknowledgement of Compliance

Legislator Nacerino stated she believes it would be incumbent upon this Legislature to make sure any non-for-profit receiving County funds are in compliance before funds are distributed. She suggested having a form that the non-for-profit agency would file with the County prior to receiving County funds. She stated the Law Department is also looking into this matter.

Legislator Albano stated he supports this suggestion.

Legislative Counsel Van Ross stated the County Attorney will provide the Legislature with suggestions as to what should be included in the budget process.

Legislator Wright suggested having an application for non-governmental organizations to fill out for the next fiscal year budget funding. He stated this application would have to be filed, which would constitute filing of a document with a governmental agency. He stated corresponding documents would be attached to such application.

Legislator Nacerino stated the Law Department began this process.

Legislator Wright stated the Law Department advising what is required obligates the Legislature to ensure each document has been properly submitted. He stated a list of required documents should be given to each agency to be handed in with their application for funding.

Chairwoman LoBue stated the County must verify that the outside agencies are in good standing before funding is appropriated.

Item #10 - Discussion/ Section 7.05 of the Putnam County Charter/ Capital Program and Capital Budget Section B (3) Capital Projects Committee Members

Chairwoman LoBue stated the Charter states that one (1) of the members of the Capital Projects Committee should be a member of the County Legislature representing the minority political party. She stated currently, all members of the Legislature belong to one (1) political party, therefore there is no minority member. She stated the wording in the Charter should be changed so there are three (3) representatives from the Legislature on the Capital Projects Committee at all times.

Legislative Counsel Van Ross stated the Legislature must decide who they would like to designate as the third party to sit on the Capital Projects Committee in the case of there being no minority member.

Legislator Nacerino stated having the Chair of the Physical Services Committee to be the third Legislative representative would make sense.

Legislative Counsel Van Ross stated there could be a situation where the Chair of Physical Services is also the Chair of the Legislature.

Legislator Albano suggested appointing any member of the Legislature at the time.

Legislator Nacerino stated appointing any member is too vague. She stated the Charter states that a member of the Budget & Finance Committee is to sit on the Capital Projects Committee, which is also vague.

Legislative Counsel Van Ross stated an appointment of a member of the Legislature to the Capital Projects Committee could be voted on at the Organizational Meeting.

Legislator Wright questioned if a Charter amendment would be required.

Legislative Counsel Van Ross stated yes, it would be required.

Chairwoman LoBue suggested having two (2) scenarios in the language of the Charter; the Chair of Physical Services or an additional member of the Legislature. She stated next month a decision could be made with the language ready to be voted on.

Legislator Nacerino stated the Chair of Physical Services being on the Capital Projects Committee makes sense. She stated in the event that the Chair of Physical Services is also the Chair of the Legislature, there could be alternate language designating another member. She also suggested having the senior member of the Legislature as the designee.

Chairwoman LoBue stated having the Chair of Physical Services as the member could cause the same people being on the Capital Projects Committee each year, as not every Legislator has the opportunity to be the Chair of Physical Services.

Legislator Castellano stated the other thing to consider is how the representative would be chosen if there are multiple members of the minority party.

Chairwoman LoBue stated wording would be worked on and reviewed at next month's Committee meeting.

Item #11 - FYI/ Board of Ethics Annual Report

Chairwoman LoBue questioned why the minutes included in the annual report were undated.

Legislative Counsel Van Ross stated what is included in the annual report is a summary.

Item #12 - FYI/ Litigation Report – Duly Noted

Item #13 - Other Business – None

Item #14 – Adjournment

There being no further business at 9:19 p.m. Chairwoman LoBue made a motion to adjourn; Seconded by Legislator Albano. All in favor.

Respectfully submitted by Administrative Assistant Beth Green.

#(α2)

CARMEL TOWN COURT
COUNTY OF PUTNAM

THE PEOPLE OF THE STATE OF NEW YORK

-against-

JEAN NOEL,

Defendant.

PLEA AGREEMENT & ALLOCUTION

STATE OF NEW YORK)
COUNTY OF PUTNAM) ss.:
TOWN OF CARMEL)

1. I, Jean Noel, the undersigned defendant, have been charged in the Carmel Town Court, Putnam County, by a felony complaint with the crime of Grand Larceny in the Third Degree, a class "D" felony, in violation of §155.35(1) of the Penal Law of the State of New York. I understand that I have been offered the opportunity to plead guilty to the lesser crime of Petit Larceny, a class "A" misdemeanor, in violation of §155.25 of the Penal Law of the State of New York, in full satisfaction of all State criminal charges arising out of Putnam County funds that were taken, obtained, and withheld by me during the time period of in and about March 31, 2012, through August 7, 2014, as described in the complaint.

2. My attorney is Robert Leader, who is present in the courtroom with me today. I am satisfied with the representation provided to me by my attorney. I understand that I have a right to have an attorney throughout the prosecution and trial of these charges and if I cannot afford an attorney, one would be appointed for me.

3. I have been advised of, and understand, the nature of the charges against me, the elements of the offense with which I am charged, and the range of permissible sentences.

4. By pleading guilty I am giving up the following rights, which I have discussed with my attorney:

- a. I understand that by pleading guilty I am giving up my right to a trial by a jury drawn from a broad cross-section of the community.
- b. I understand that by pleading guilty I am giving up my right to have the People produce witnesses to testify against me.
- c. I understand that by pleading guilty I am giving up my right to have my attorney cross-examine any witnesses who may testify against me.
- d. I understand that by pleading guilty I am giving up my right to have my attorney produce witnesses to testify for me.
- e. I understand that by pleading guilty I am giving up my right to remain silent and my right to either testify or not testify at trial.
- f. I understand that by pleading guilty I am giving up my right to have the People prove my guilt beyond a reasonable doubt by a unanimous verdict by all jurors.
- g. I understand that by pleading guilty my plea will operate just like a conviction of guilty after a jury trial.
- h. I understand that by pleading guilty, if I have a defense to this charge, I am giving up my right to present that defense at trial.
- i. I understand that by pleading guilty I am giving up my right to claim that the police did anything illegal in regard to this charge, and my

right to a hearing to determine if that police conduct was, in fact, illegal.

- j. I have been advised of and understand that I am pleading guilty to a misdemeanor, which will give me a criminal record.

5. I acknowledge that I have consulted with my attorney about the immigration consequences of my guilty plea, and I have been advised that if I am not a United States citizen, my guilty plea may subject me to immigration proceedings and removal or deportation from the United States. I understand that the immigration consequences of my plea will be imposed in a separate proceeding before the immigration authorities. I wish to plead guilty to the charged offense regardless of any immigration consequences of my guilty plea, even if my guilty plea will cause my removal from the United States. I understand that I am bound by my guilty plea regardless of any immigration consequences of the plea. Accordingly, I waive any and all challenges to my guilty plea and sentence based on any immigration consequences, and agree not to seek to withdraw my guilty plea, or to file a direct appeal or any kind of collateral attack challenging my guilty plea, conviction, or sentence, based on any immigration consequences of the my guilty plea.

6. This agreement will take effect when and if approved by the Court presiding over People v. Jean Noel.

7. At the time of my plea, I will, under oath, admit that I have engaged in the following criminal conduct:

- a. I hereby admit that during the above-stated time period, in Putnam County, New York, I stole \$4,575.00 from numerous local contractors and I further admit that I never provided those payments to the Putnam County Finance Department.

8. I understand that in accordance with this plea, I will be sentenced to a one-year conditional discharge. I understand that as part of this plea agreement, and prior to the time of the plea, I have terminated my employment with Putnam County and provided a check to Putnam County Commissioner of Finance in the amount of \$7,891.49 in satisfaction of restitution owed to Putnam County relating to this matter.

9. I understand that if I was convicted after trial of the crime of Grand Larceny in the Third Degree under PL 155.35(1), I could have faced a maximum sentence of two-and-a-third to seven years in prison and a fine of \$5,000 or double the amount of my financial gain.

10. I understand further that this plea agreement in no way releases me from any civil liability that I may have regarding the instant matter.

11. Further, in consideration for and as part of the plea agreement in this matter, I hereby waive and relinquish my right to appeal from any judgment of conviction, and from any proceedings herein that may result from this prosecution. I have been advised of my right to appeal, my right to be represented by an attorney on appeal, and my right to have an attorney assigned for me on appeal if I cannot afford one. It is my understanding and intention that the plea agreement in this matter will be a complete and final disposition of the matter. I make this waiver knowingly and voluntarily after having been fully advised of my rights by the Court and having had a full and fair opportunity to discuss these matters with my attorney.

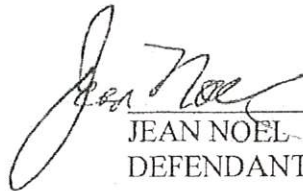
12. I hereby agree to enter a plea of guilty in accordance with the terms of the plea offer which has been made to me, having consulted with my attorney and having been advised of all of the rights listed above.

13. I understand these rights, and the terms and conditions of this Plea Agreement, which I have read completely. My plea of guilty is given freely, voluntarily, knowingly, and without coercion of any kind. No threats or promises have been made to me to induce me to plead guilty.

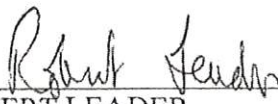
14. I am not under the influence of alcohol, drugs, or medication, nor is there any other mental or physical impairment, which prevents me from understanding these proceedings here or from entering this plea knowingly, intelligently and voluntarily. My mind is clear and my judgment is sound.

15. This agreement is limited to the Office of the New York State Attorney General and cannot bind other government agencies.

Dated: Carmel, New York
February 22, 2016


JEAN NOEL
DEFENDANT


Witnessed by:


ROBERT LEADER
ATTORNEY FOR DEFENDANT

Agreed by:


WANDA PEREZ-MALDONADO
ASSISTANT ATTORNEY GENERAL

Approved by:


JUDGE JOSEPH J. SPOFFORD, JR.