

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

Members: Chairman Sullivan and Legislators Addonizio & Albano

Monday July 22, 2019
(Immediately following the Health Mtg. beginning at 5:30pm)

The meeting was called to order at 7:00pm by Chairman Sullivan who requested that Legislator Albano lead in the Pledge of Allegiance. Upon roll call Legislators Addonizio & Albano and Chairman Sullivan were present.

Item #3 - Approval of Minutes – June 20, 2019

The minutes were approved as submitted.

Item #4 - Approval/ Budgetary Amendment 19A041/ Board of Elections/ Purchase EPOLBOOK System to Comply with Early Voting Requirements/ Largely Utilizing NYS Grant Funds

Kelly Primavera, Deputy Board of Elections Commissioner stated New York State has mandated that early voting be made available in the eight (8) days prior to Election Day. She stated the State has approved three (3) EPOLBOOK companies to allow Counties to expedite the voting process, which would allow for electronic sign-in. She stated they chose the least costly company and will be ordering 100 EPOLBOOKs, four (4) of which will be used for early voting.

Chairman Sullivan requested clarification on the EPOLBOOK.

Deputy Commissioner Primavera stated an EPOLBOOK is an electronic poll book. She stated rather than signing into the book for their specific district, voters will sign in electronically. She stated this allows the Board of Elections to view real-time statistics of everyone who has signed into the polls.

Board of Elections Commissioner Anthony Scannapieco stated Putnam County has only one (1) voting location for early voting. He stated other Counties are required to have more, and the electronic sign in will keep better track making sure people vote only once.

Chairman Sullivan questioned where the location for early voting will be.

Deputy Commissioner Primavera stated it will be at Board of Elections.

Legislator Albano questioned if signatures will be in the electronic book as they are in the physical book so it can be compared to the one signing in.

Deputy Commissioner Primavera stated yes, the signature on file will be shown for comparison purposes.

Legislator Nacerino questioned if the implementation of the electronic poll books will reduce the amount of poll workers needed.

Deputy Commissioner Primavera stated yes, it will cut down on the amount of people needed on Election Day; however workers that were not necessary before will be required for early voting. She stated the biggest polling site that will have the most electronic poll books is Doherty Hall in Carmel. She stated usually, when a voter came in they would go to their election district to sign the proper book. She stated starting in November, there will be sign in tables, a help desk, and a ballot desk. She stated voters can sign in at any of the electronic poll books at the sign in tables; it will no longer be necessary to sign a specific book.

Commissioner Scannapieco stated upon sign in, the voter will receive a slip that they will give to the person at the ballot desk and they will give the voter the proper ballot.

Deputy Commissioner Primavera stated there is money coming down from the State.

Commissioner Scannapieco stated the State funding will come to the County as a reimbursement.

Legislator Castellano clarified that early voting begins on October 26th, and anyone in the County can go to Board of Elections to vote. He questioned what happens if someone votes early and then goes to vote on Election Day.

Deputy Commissioner Primavera stated the electronic poll book will show that they have already signed in.

Legislator Castellano stated he recalls hearing that since things may change up until Election Day, people can recast their vote and their most recent vote would count.

Commissioner Scannapieco stated that is incorrect.

Legislator Castellano questioned how the early votes are counted.

Deputy Commissioner Primavera stated the votes can be counted beginning at 8:00pm on Election Day but cannot be posted until 9:00pm.

Legislator Castellano questioned if the early voting time period ends on Election Day.

Deputy Commissioner Primavera stated early voting will end on the Sunday before Election Day.

Legislator Nacerino questioned if the EPOLBOOK eliminates paper ballots.

Deputy Commissioner Primavera stated upon sign in, the voter will receive a receipt that will state which election district they are in. She stated the voter will hand that receipt to the Inspector at the ballot table, who will provide them with the correct ballot. She stated paper ballots are not going away any time soon.

Legislator Castellano questioned how that process will work for early voting at Board of Elections, since voters from anywhere in the County can vote there during that time.

Deputy Commissioner Primavera stated for early voting they will print the correct ballot on demand for each voter that comes in.

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

Item #5 - Approval/ Re-Appointment/ Board of Ethics/ Eldridge

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

Item #6 - Changes to Chapter 135 of the Putnam County Code Entitled “Contractors”

a. Approval/ Local Law to Amend the Code of the County of Putnam Chapter 135, Entitled “Contractors”

Senior Deputy County Attorney Conrad Pasquale stated a prior draft of this amended law had previously come before the Committee; however there were some issues with it. He stated the main point of the amendment is to make this law parallel to the Plumbing & Mechanical Trades (Plumbing) law, Chapter 190, as well as the Electricians law, Chapter 145. He stated those two (2) have been amended and are similar as far as numbering and subsections. He stated he believes this amendment is a good fit to replace the law in its current form. He stated the first change is to rename the title of the law from “Home Improvement” to “Contractors”. He stated there were some inquiries about whether a commercial contractors law would be put into place, however at this time he believes it was more important to focus on this law that has been in effect. He stated as far as the parallel changes to the law, the E-Verify has been removed. He stated E-Verify is a Federal requirement that all employers are subject to and all employees must submit to this evaluation and it will be determined if that individual is eligible to work in the United States. He stated the problem with that was that Putnam County never had the means to actually use it, therefore although it was technically on the books it was not something that could be verified one way or the other. He stated furthermore, it does not serve any practical purpose because it is only

the registrant who is required to go through the E-Verify check, who would be the business owner. He stated the employees are not required to register. He stated the person registering will most likely be permitted to legally work within the United States, making this verification a moot point.

Chairman Sullivan questioned if this requirement was removed from the Plumbing and Electricians laws.

Senior Deputy County Attorney Pasquale stated yes, it has been removed from those two (2) laws. He stated some definitions have been added to the law to define what is needed for a Board quorum and voting quorum. He stated the requirement for composition of the Board has been amended, while keeping the intent to have the make-up of the Board to be a good cross section of those who are engaged in the home improvement business. He stated the ability to become a Board Member if the individual owns a business within the County has been added. He stated the ability to attend a Board Meeting with electronic means has been added, although he does not anticipate this being used very often. He stated a few items have been added to the list of things that are considered "home improvement", such as gutter maintenance, chimney cleaning, installation and repairs. He stated there was some overlap in responsibilities of the role of the Board versus the Director. He stated he would like to make it clear that the purview of the applications goes to the Director. He stated as for hearing complaints, there could be a split because the Board is who will hear the case and set the fine or punishment, but complaints from an individual homeowner would go to the Director. He stated the underlying intent of the law is to protect the health, safety, and welfare of the residents of Putnam County. He stated when individual homeowners who feel they have been aggrieved by a contractor file a complaint it will be to the Director. He stated there is nothing in the current form of the law that addresses mediation or homeowner complaints and how to deal with them. He stated sometimes the best outcome for the residents is to have someone to mediate the problem. He stated a section has been added to the complaint process to address this. He stated changes were made to the application and registration process in terms of requirements. He stated this has been reworded so the Director can require different forms of identification as a prerequisite, which should serve to reduce registration of illegal residents, people who do not actually live in Putnam, which actually tricks the job market for Putnam residents as well as providing legitimate address for notices of violations or complaints going forward. He stated language was added to clarify that both contractors and subcontractors must be registered. He stated this was a big change that the Board discussed multiple times. He stated the old version of the law was not clear in terms of the writing and statute itself whether subcontractors were covered and actually required to register. He stated independent contractors will need to register as well. He stated the renewal process and penalties for late renewal have been made clear by this amendment. He stated there is a 60 day grace period for late renewals, after which there is a fee of \$25 per month up to 10 months. He stated after one (1) year (the 60 day grace period plus the 10 months), if the contractor has not renewed, their renewal privileges are automatically revoked. He stated after six (6) months, the Board can bring the contractor in for a hearing if they believe it is

appropriate. He stated regarding the fee structure, it was previously incorporated into the powers and duties of the Director, although it did not make sense to have it there as the Board is responsible for setting the civil penalties and voting on what the fee structure should be before it comes to the Legislature. He stated this was taken out and given a separate section, Section 13, which is item #6b on tonight's agenda. He stated a section was added on regulating business. He stated this can get confusing because when dealing with home improvement law, it is strictly with regard to registrations. He stated both Plumbers and Electricians deal with registrations and licenses. He stated individual journeymen or masters in those respective trades must be licensed, which include additional steps to be taken. He stated contractors only deal with registrations, and rather than each individual contractor obtaining a registration, it is the business that is registered. He stated this is how the Home Improvement Board has always done it and it will continue moving forward. He stated they did leave something in the law for the occasional individual who does part time work; it is not necessarily fair to identify them as a "business". He stated although a business license could be obtained through the County Clerk's office at a low cost, it is a small but unneeded burden especially because it does not provide the individual any protection. He stated under the new regulation of business section, this was one of the big additions. He stated with regard to complaints in terms of residential housing, Section 135-19 goes into detail of procedure. He stated complaints can only be made by individuals; not businesses or corporations. He stated one (1) caveat that was added is while not dispositive, the Director can consider complaints when deciding if applications will be granted, even if the complaint is not substantiated. He stated a big part of this is that there has to be a degree of discretion. He stated if a contractor has had multiple complaints made against them, even if none have been substantiated, it is something worth considering if and when they go to re-register. He stated these situations should be handled on a case-by-case basis; therefore it cannot be specifically legislated. He stated should there be a denial of an application, the applicant has the ability to appeal it or they can file an Article 78, which the County would want to avoid by having the Director use this responsibility sparingly and only when appropriate. He stated with regard to the mediation process, the Director will receive the complaint; he will then follow the requirement to have the Compliance Officers investigate the complaint. He stated action is not required to be taken, but an investigation must be conducted. He stated even if the complaint is not substantiated, the Director can then offer the mediation process, which is voluntary among all parties and is non-binding. He stated as far as enforcement, the Law Department will draft a fill-in-the-blank general release to be signed by both the contractor and complainant with the terms of the release. He stated once both parties have signed the document, it is a binding agreement. He stated once that is done, if one (1) party does not perform it is enforceable in civil court. He stated at that point, it is incumbent upon the contractor or homeowner to pursue enforcement. He stated the amendment also addresses details with regard to the Compliance Enforcement Officer and the hearing process. He stated the timeline to hold a hearing has been increased from 60 days to 100 days; this was done to provide the Board with the opportunity to spread out some of their hearings, making the process less onerous for the Board members. He stated the Compliance Enforcement Officer section has been made consistent with the Plumbers and Electricians laws. He stated another big

change was with regard to the definition of “Suspension” and “Revocation” which is relevant to the civil penalty section and is under Section 135-22(C)(3)(c) & (d) in particular. He stated he feels strongly that the insurance bonding requirement language that has always been there should remain there. He stated the language of the prior law only required the contractor to have it during application, whereas the amendment made to this law states that the contractor must carry that insurance the entire time they are registered.

Chairman Sullivan stated Putnam is named as additional insured, which means the County will be notified if the policy is cancelled.

Senior Deputy County Attorney Pasquale stated that is correct; that has always been included in the law. He stated the County is an obligee because the County requires the contractor to have the surety bond. He stated listing Putnam County as additional insured protects the County from any wrongdoings.

Chairman Sullivan stated in Section 135-4 Definitions under the definition of “Home Improvement” subsection B references the construction of a custom home. He stated in the past, this law focused on the individual contractor and not as much on the builder.

Senior Deputy County Attorney Pasquale stated this law does not apply to a new build. He stated the reference to the construction of a custom home as always been in the law. He stated he believes a custom home refers to construction on already owned property.

Director of Consumer Affairs Michael Budzinski stated a custom home is not one intended for resale; it is built to be the land owner’s residence.

Chairman Sullivan stated he believes this law leaves a gap. He stated consumers are protected from an individual contractor, however they are not protected from the builder when a new home is being constructed. He stated he is aware that there are New York State warranties and laws, however they can be complicated.

Senior Deputy County Attorney Pasquale stated he believes that is regulated by the General Business Law, which is a State law.

Chairman Sullivan stated the intent of this law is to protect consumers against contractor work going wrong. He stated he has heard horror stories from people who have built a house and the difficulties they have faced when trying to enforce the laws that are on a higher level.

Senior Deputy County Attorney Pasquale clarified that Chairman Sullivan would like new builds to be covered in the County Contractors law.

Chairman Sullivan stated yes.

Senior Deputy County Attorney Pasquale stated this section of the Contractors law is the same as it has been since before he began working on updating the law. He stated he saw no reason to make a change to this section, especially based on the opinion of his predecessors as well as the Board. He stated they did explore the definition of a “new home” and they specifically correlated it to the General Business Law definition. He stated that being said, he understands Chairman Sullivan’s concern.

Chairman Sullivan stated in his opinion, leaving out construction of a new home and the general contractor leaves a big gap.

Legislator Albano stated usually when a contract is in place for construction of a new home it states that there are requirements per New York State law. He stated it is interesting though that proof of the builder’s insurance is not necessary.

Chairman Sullivan stated this is the person building the house; they should be required to prove insurance.

Legislative Counsel Robert Firriolo stated it would have to be looked into if local regulation would be preempted by the State law.

Chairman Sullivan stated he does not believe the State law includes a requirement for a builder to have insurance when building a house.

Senior Deputy County Attorney Pasquale stated he believes that is correct.

Chairman Sullivan stated this law requires contracts to have coverage to make sure everyone is protected, yet the general contractor who would be building the house does not have the same requirements.

Senior Deputy County Attorney Pasquale stated if it does not apply to the general contractor, he does not believe it would apply to any subcontractors either.

Chairman Sullivan stated the title of the law itself has been changed from “Home Improvement” to “Contractors”.

Legislator Albano stated this law pertains to people working directly for the homeowner. He stated the building of a new home would be more commercial.

Director Budzinski stated when a new home is being built there is no homeowner yet; it is owned by the builder until it is sold.

Chairman Sullivan questioned in the circumstance of a new home being built and the builder has subcontractors come in to do the electrical, plumbing, roofing, etc. work, if there are requirements to make sure those subcontractors are registered with the County.

Director Budzinski stated that would fall under the responsibility of the Building Inspector.

Legislator Addonizio stated if there was a mortgage for the new construction the bank would require proof of registration and insurance.

Legislator Nacerino stated she believes requirements for new construction would fall under Home Rule. She stated there are requirements in each municipality.

Chairman Sullivan stated we do not know for sure what the towns require.

Legislator Albano stated the New York State law that is in place can be looked into to confirm what protection it provides the consumer and if anything would need to be incorporated into this County law.

Senior Deputy County Attorney Pasquale clarified that this discussion is pertaining to specifically new construction. He stated he will look into this and make any appropriate changes.

(A motion was made for this item at the end of item #6b.)

b. Approval/ Home Improvement Fees/ Civil Penalty Schedule/ Pursuant to Sections 135-13(A) and 135-13(B) of the Putnam County Code

Senior Deputy County Attorney Pasquale stated these schedules have not been revised in about 10 years. He stated the application fee has been raised \$50 from \$250 to \$300 for a two (2) year period and will include original decals. He stated replacement or additional decals can be purchased for \$5 each. He stated the renewal application language in this resolution is in relation to the late fee that was discussed earlier in the meeting. He stated the renewal application fee is \$300 if received within 60 days after the registration expiration; each month beyond that will result in a \$25 fee, not to exceed a total late fee of \$250. He stated this would be a total time period of one (1) year from expiration, at which point the registration would be revoked.

Legislator Albano questioned if a contractor would be able to reapply if they had their registration revoked.

Senior Deputy County Attorney Pasquale stated yes, they would be able to reapply. He stated contractors can also notify the Board that they will not be renewing and will therefore avoid the non-renewal penalties.

Legislator Albano questioned if the contractors are notified when their registration is expiring.

Senior Deputy County Attorney Pasquale stated yes, the Secretary of the Home Improvement Board sends out notifications.

Legislator Addonizio questioned if the notification is sent by letter.

Senior Deputy County Attorney Pasquale stated yes, it is sent via certified and first class mail to ensure receipt. He stated in the event that a contractor had their registration revoked and would like to reapply, they would just be required to pay their late fee and reapply for registration.

Legislator Addonizio stated she believes the total late fee of \$250 is high.

Senior Deputy County Attorney Pasquale agreed. He stressed the importance of the contractors knowing what they are required to do. He stated before this law goes into effect the Board will be notifying every one of the changes.

Chairman Sullivan questioned how many contractors are registered in Putnam County.

Secretary of the Home Improvement Board Linda DiBella stated there are about 2,200 contractors currently registered.

Legislator Addonizio expressed her concerns regarding the high late fee of \$250.

Senior Deputy County Attorney Pasquale stated the fee begins to accrue at the third month of non-renewal. He stated a letter is sent to the contractor prior to expiration, and an additional letter is sent once the expiration date has passed. He stated fair notice is a requirement that he advocates for in each Consumer Affairs Board.

Ms. DiBella stated when she sends out the letter that notifies the contractor that their registration has expired; it includes a form to fill out if the individual is no longer working in Putnam County.

Legislator Addonizio questioned what happens in the case where someone is not in business, but they hold a license. She provided the example of a journeyman's license.

Senior Deputy County Attorney Pasquale questioned if Legislator Addonizio's question was in reference to Home Improvement, or the other Boards (Plumbing and Electrical).

Legislator Addonizio stated Plumbing, for example.

Senior Deputy County Attorney Pasquale stated the other laws, Plumbing and Electrical allow for an individual to shelve their license, however this does not fit in the Contractor's law. He stated he understands Legislator Addonizio's concern of having consistency throughout all three (3) laws. He stated he will note this concern and amend the fee schedule to make it consistent.

Legislator Albano questioned why subcontractors are required to be registered when they are working under a general contractor who is also required to be registered.

Senior Deputy County Attorney Pasquale stated the Board has determined that all contractors should be registered.

Legislator Albano stated he does not see the necessity of that because the general contractor has the responsibility of insurance and workers compensation or anything else applicable.

Senior Deputy County Attorney Pasquale stated there are a few contingencies to keep in mind. He stated the general contractor could be holding a policy that fails, which could put the subcontractor at risk. He stated requiring registration from both the general contractor and sub-contractor provides twice the protection for the homeowner. He stated a few things were removed from the Fee Schedule such as duplicate registration for lost, destroyed, or mutilated card because plastic cards are no longer being used. He stated denied application refund has also been removed. He stated as far as the Civil Penalty Schedule goes, violation of worker's compensation waiver has been removed because that is now viewed as a prohibited act, which carries a maximum penalty of \$5,000. He stated lack of proper registration is the most common violation and there are different degrees of culpability to consider in this situation; someone who has never registered, someone working with an expired registration, and someone who has had their registration suspended or revoked. He stated quick payment is encouraged by a lower fee with part of it going toward their registration fee. He stated another addition that he wanted to discuss is "Any additional category of penalty not otherwise covered by this schedule shall be subject to the discretion of the Board pursuant to §135-13(B) of the Home Improvement Law." He stated there are many potential violations; therefore this allows the Board to use their discretion to make the right decision. He stated also added is "In assessing the penalty for a violation of Chapter 135 of the Putnam County Code, the Board may deviate from the civil penalty schedule approved by the Legislature if it believes, in its discretion, it is warranted by the facts and circumstances of the case. Such deviation, either increasing or decreasing the penalty, and the justification for same must be placed on the record and be approved by a majority roll call vote of the entire Board." He stated in order to utilize this provision the entire Board must be present to vote on the deviation from the schedule and it should be used sparingly. He stated a representative from the Law Department is at every Board Meeting, and if they believe such a deviation could result in an issue for the County, they will have the opportunity to provide guidance.

Legislator Albano stated he is in favor of both the Board and Director having the ability to use discretion in appropriate circumstances.

Legislator Castellano questioned if language should be added regarding an amount not to exceed.

Senior Deputy County Attorney Pasquale stated the maximum penalty for any violation is \$5,000. He stated a fee or penalty of \$5,000 is very rare and is for extreme circumstances.

Chairman Sullivan also agreed that the Board should have discretion when hearing different cases.

Legislator Albano questioned how many surety bonds have been collected on.

Director Budzinski stated many times the homeowners pursue that.

Senior Deputy County Attorney Pasquale stated the County is the obligee on the \$25,000 surety bond because the County requires it. He stated the homeowner can make a claim against the bond and if the surety believes the claim is legitimate, they pay the homeowner and would then pursue a lawsuit against the contractor. He stated it is different than insurance and is easier to make the homeowner whole.

Chairman Sullivan stated surety bonds are relatively inexpensive, costing about \$125 per year.

Senior Deputy County Attorney Pasquale reviewed the concerns raised by the Committee and stated he could look into the matter and make appropriate changes prior to the Full Legislative Meeting.

Legislative Counsel Firriolo stated if by the time of the Full Legislative Meeting there is still an outstanding question, the item can be tabled to go back to Committee.

Chairman Sullivan made a motion to approve item #6a – Local Law to Amend the Code of the County of Putnam Chapter 135, Entitled “Contractors” subject to the changes mentioned by Senior Deputy County Attorney Pasquale; Seconded by Legislator Addonizio. All in favor.

Chairman Sullivan made a motion to approve item #6b – Home Improvement Fees/ Civil Penalty Schedule/ Pursuant to Sections 135-13(A) and 135-13(B) of the Putnam County Code; Seconded by Legislator Albano. All in favor.

Item #7 - Approval/ Opposing and Calling for Repeal of the New York State “Driver’s License Access and Privacy Act” Amending the Vehicle and Traffic Law to Allow Issuance of Drivers’ Licenses to Illegal Aliens

County Clerk Michael Bartolotti stated the Driver’s License Access and Privacy Act passed by New York State will have a direct impact on the Department of Motor Vehicles (DMV), which falls under the County Clerk’s Office and its staff once implemented. He stated in his opinion, which he shares with many of his colleagues, this law puts county clerks in a tough spot because there is State Law that says that if someone comes in that cannot prove lawful presence but has certain foreign documents or identification, they could be issued a driver’s license. However, there are Federal laws that say if someone does not have lawful presence in the United States of America, they may not be afforded certain privileges and the question is whether this

would be one of them. He stated since the passage of this law they have been trying to cast as wide of a net as possible to make sure all the bases are covered. He stated he has been in contact with the County Attorney's Office to aid in his research and a letter was sent to the Federal Government requesting guidance of how to move forward. He stated he has also been working with the statewide Association of County Clerks to come up with questions pertaining to implementation so the answers can be provided to the staff at the DMV. He stated the implementation date is December 16, 2019 so he is trying to prepare as best he can before that date. He stated this law was introduced in January 2019 and he has grave concerns regarding the way the statute was drafted. He stated there are hundreds of customers coming into the DMV each day for different types which require different proofs, such as the REAL ID and the Enhanced License. He stated this law pertains to providing a standard license. He stated he has major concerns with respect to accepting foreign documents, especially because there is nothing in the law that requires a certified translation. He stated there is no way to tell if the document is legitimate because it would be from a foreign nation and we do not know how they would certify it. He stated if a document from the United States is going to another country there are seals and certified translations that go along with it. He stated in order to apply for a driver's license New York State requires six (6) points of ID, with different forms carrying various points. He stated they do not know how to determine the point value of a foreign identification document. He stated the major thing this legislation does is that is removed social security number verification from stand driver's licenses. He stated social security verification became a requirement in 2001 by the Pataki Administration. He stated this requirement is useful for detecting fraud and has stopped many cases of people using false identification. He stated his office has not been notified if there will be any training for staff on the documents that they may start to see. He stated another issue tied to this legislation is the Motor Voter. He stated in his opinion, Motor Voter in New York State is horrendous. He stated the New York State Attorney General and the US Attorney General entered into a stipulation of settlement because the US Government said that the New York State Motor Voter was not user friendly enough, which resulted in a tablet being available to the customer at the DMV. He stated the employees at the DMV have no interaction with the tablet. He stated when someone is doing an identification transaction they are asked on the tablet if they would like to register to vote, no matter who the person is. He stated there are currently people who have a driver's license who are not US citizens, but can prove their lawful presence via a temporary Visa or green card. He stated this is an issue in relation to this legislation that has not been addressed by the New York State DMV. He stated once this is enacted in December if there is a situation where someone cannot prove lawful presence, they are still being asked if they want to register to vote. He stated within 24 hours, the information from the tablet is transmitted to the local Board of Elections and the names are on the voter registration rolls. He stated many things are driven by voter registration rolls therefore they should be as pristine as possible. He stated a data dump of people, whether they belong or not, is not a good system. He stated this concern has been brought to the State and he has not heard anything back. He stated these concerns were also brought to the attention of the State Legislators when the bill was being considered and none were addressed. He stated in his research he looked into what was done in other states. He stated the

majority of the other states that permit people who cannot prove lawful presence to have driving privileges have a much different process in place. He stated in the State of Illinois if the person is a temporary visitor, they receive a temporary visitor's driver's license which lasts three (3) years and is not renewable; the person must reapply every three (3) years. He stated the license itself looked different than permanent resident driver's licenses; it had a different color scheme and was marked with TVDL and not for Federal purposes. He stated the nice thing about it was that it was not a scarlet letter. He stated the people who had this license could have been here on a Visa or not being able to prove lawful presence. He stated this seemed to be a reasonable model to follow. He stated the law in its current form is riddled with issues of concern.

Chairman Sullivan questioned how many counties have spoken in opposition to this law.

County Clerk Bartolotti stated he does not have an exact number of counties. He stated when looking at other states in the Country, it is an operation solely under the State government umbrella with the commissioner being a State Department Head. He stated in New York, 51 out of the 62 counties have a separately elected County Clerk who also serves as the local Commissioner of the DMV. He stated out of those 51 counties, the number of County Clerks who have raised concerns is up in the 30's. He stated he is not in the minority among his colleagues with respect to their concerns. He stated he is in contact with his fellow county clerks often and they speak in depth on these issues. He stated he appreciates the time to address the Committee regarding these concerns.

Chairman Sullivan thanked County Clerk Bartolotti for coming to the meeting.

Legislator Albano stated he could see some benefit, but it is important to follow a reasonable model. He stated there are many people driving without documentation. He stated the way this law is written is too loose.

Chairman Sullivan questioned if a permit test would be required prior to receiving a driver's license.

County Clerk Bartolotti stated yes, they will go through the same process of taking a permit test, taking a road test, and meeting all requirements to register a vehicle in New York State.

Deputy County Clerk James McConnell stated they will be required to have insurance for the vehicle as well.

County Clerk Bartolotti stated there are absolutely merits to having this law in place, but right now the concerns are outweighing the merits.

Legislative Counsel Firriolo stated the County Clerk in Erie County has filed suit to stop this from going into effect citing a conflict between Federal and State law. He stated he is unaware if other counties have joined since.

County Clerk Bartolotti stated that is correct. He stated Erie County has gone to Federal Court to ask for at least a temporary injunction while the matter is litigated. He stated he is asking for declaratory judgement to see as to whether this legislation would be in conflict with Federal law.

Chairman Sullivan stated he is concerned because a driver's license is an official document that is used for proof of identification that everyone carries with them. He stated he is also concerned with the ability to prove the legitimacy of foreign documents.

County Clerk Bartolotti stated from a realistic perspective, when dealing with foreign documents it almost impossible for the DMV to verify the legitimacy of those documents. He stated there is a small unit in the New York State DMV called SAVE where the County can send things for verification. He stated right now, dealing with the implementation of REAL ID, they are immensely behind and it is taking weeks for some people to complete their driver's license transactions. He stated there has been no indication about whether SAVE will be expanded or if they will offer training, and having to send more documents for verification will place a burden on the licensing process.

Legislator Albano stated two of his children have been involved in accidents where the person at fault was an undocumented immigrant. He stated in this situation, he would have liked to know that the individual took a driver's test and was qualified to drive. He stated both cases, it was difficult to navigate because of the lack of documentation. He stated he would like to have legislation in place to combat this issue; however the law passed by New York State in its current form is not it.

Legislator Nacerino stated using a social security number is a reliable source to verify one's identity. She questioned without using the social security number how people with the same name might be differentiated, especially with foreign documents that are unable to be translated.

County Clerk Bartolotti stated he is unable to answer that, which is a big root of his frustration with this. He stated without requiring a certified translation, he is unaware how the documents will be sufficiently read.

Legislator Jonke stated a similar law was passed by the State in relation to real property tax with no process in place. He stated it is important to have an outlined plan with clear instruction detailing implementation. He stated a driver's license is a very important document.

Chairman Sullivan stated this bill was introduced and passed quickly.

County Clerk Bartolotti stated the latest bill was introduced in January 2019. He stated they tried to voice their concerns in the short window.

Chairman Sullivan stated he has concerns as well. He stated the opinions of the County Clerks throughout New York State and those who run the DMVs across the State are very important.

Legislator Castellano stated the concern of a “scarlet letter” was brought up earlier and he questioned how this would work if the driver’s license issued to undocumented individuals was different than those issued to legal residents. He questioned if the related documents are able to be obtained through FOIL (Freedom of Information Law).

County Clerk Bartolotti stated the information is not able to be FOILED due to the Federal Driver Privacy Protection Act which is currently in place; however government law enforcement can request it. He stated this legislation has significantly reduced the information that the State DMV can share with the government, including law enforcement, which is a grave concern. He stated to answer the question about the differentiation between driver’s licenses; theoretically individuals who can prove legal presence may opt not to get a REAL ID or Enhanced license. He stated there are other States who provide a REAL ID to those who can prove lawful presence, while those who are not able to prove lawful presence get a regular driver’s license. He stated in New York State those who can and cannot prove lawful presence could theoretically get a driver’s license that says “not for Federal purposes” which is a regular driver’s license. He stated whether the license is marked “not for Federal purposes” will be within the discretion of the commissioner and is not required. He stated with respect to the “scarlet letter” issue, other states have created a license for those who are unable to prove lawful presence, which has caused problems as well. He cited a situation where someone tried to enter a military base and when asked for their identification, they were arrested because they had the driver’s license which showed they were undocumented. He stated there is a way to do this right, and the law passed by New York State was not done right.

Legislator Castellano stated his concern with having a separate driver’s license for undocumented individuals might encourage the submission of forged documents to obtain a regular driver’s license.

County Clerk Bartolotti stated that is a possibility; it is unknown what the impact might be.

Chairman Sullivan stated this legislation is not ready to be implemented yet. He recognized members of the public who wished to speak on this topic.

Vanessa Agudelo stated she is the Hudson Valley Manager of Member Engagements for the New York Immigration Coalition (NYIC). She stated NYIC is a statewide advocacy organization made up of over 200 organizations that work on and advocate for immigrant issues. She stated there are many organizations that provide services within Putnam County. She stated NYIC along with their coalition partners spearheaded the effort behind the “Green Light” campaign this Legislative session. She stated many of the concerns raised tonight are concerns that have been addressed in

the legislation. She stated there are some misconceptions surrounding how this legislation was drafted and the people that were part of the process, which she would like to shed light on. She stated along with partners at the ACLU (American Civil Liberties Union), NYIC is part of the group that drafted this legislation. She stated when campaigning on this issue, they made sure that they were seeking buy in from stakeholders across the spectrum; politically and all else.

Chairman Sullivan questioned if they reached out to County Clerks.

Ms. Agudelo stated yes, they reached out to County Clerks as well as law enforcement. She stated it was not difficult to get support. She stated insurance company associations very much endorsed this legislation because it will increase the amount of insured drivers on the road. She stated they were able to get endorsement from chambers of commerce across the State as well as small business and large corporations alike. She stated businesses understood as employers, that it is important for their employees to get to work on time and will only enhance their productivity level. She stated they also made sure that law enforcement was very much a part of this process. She stated they spent about two (2) months going back and forth with law enforcement about certain language within the legislation to make it as clear as possible. She stated it was stated earlier in the meeting that this legislation was introduced this past January, which is true because any legislation at the close of a legislative session must be reintroduced with a new bill number each year. She stated this is legislation they have been advocating for and adapting for the past seven (7) years. She stated there are some errors in the proposed resolution that the Committee will be voting on this evening. She stated the ninth whereas paragraph of the resolution states that the marking of "Not for Federal Purposes" on a standard driver's license is not mandatory. She stated this is false because it is Federal law that any identification being issued by the government and not for Federal purposes must be marked accordingly. She stated the resolution goes on to state "if so marked, such insignificant demarcation is likely to cause confusion in identifying whether an individual holds standard license or REAL ID compliant Federal-purpose driver's license." She stated she has born in New York State and showed the Committee her own driver's license which is marked "Not for Federal Purposes." She stated the standard license would not be a "scarlet letter" because it would look like the driver's license everyone else has. She stated her intern has an identification card, not a driver's license, and is under the age of 21 and the marking of "Under 21" on her card is just as small as the "Not for Federal Purposes" demarcation. She stated she would argue that the demarcation is compliant and enough for anyone checking the licenses or identifications. She referenced the twelfth and thirteenth whereas paragraphs in the resolution which speak to the ability of the local DMV to determine eligibility for a standard driver's license when documents submitted are from a foreign agency. She stated although that may be true now, it is very important to acknowledge the fact that this legislation is a huge revenue generator; an estimated \$57 million per year that would go to both the State and County governments. She stated surely enough funding would be coming down from the State to provide training to the staff members of the DMV to ensure they are adequately equipped to verify the foreign documents. She stated she believes this resolution is

also implying that there is a lack of access to law enforcement. She stated as mentioned earlier, the NYIC went back and forth with many State law enforcement agencies because this was a huge concern for them. She stated she does not believe this legislation would have been passed without the support of law enforcement. She stated the State legislation specifically says that individual applicant information can be disclosed in response to a court order, judicial warrant, or valid issued subpoena. She stated this is very specific information and if any law enforcement agency has these documents, they are able to access the information collected in the database. She stated this should clear any of the public safety concerns that may arise. She stated she understands that public safety is the #1 priority for everyone here, as it is for law enforcement as well. She stated this is why many Chiefs of Police have publicly endorsed this legislation.

Chairman Sullivan questioned which law enforcement agencies Ms. Agudelo is referring to.

Ms. Agudelo stated they worked with the Chief of Police in Ossining, Chief of Police in Port Chester, Police Chief Apple in Albany, among other Police Chiefs in upstate New York. She stated the former Erie County Clerk spoke out in support of this legislation prior to its passage. She stated this legislation was passed with a lot of support throughout the State. She stated she believes it is the responsibility of the Legislature to reconsider the proposed resolution on tonight's agenda. She stated she hopes the Legislature also considers the positive attributes related to bringing this legislation to fruition, such as the increased revenue and increase in public safety. She stated undocumented individuals may not be inclined to leave the scene of an accident if they have proper a proper driver's license and insurance. She stated this is a benefit for the whole community. She stated 14 other States have passed similar legislation.

Chairman Sullivan thanked Ms. Agudelo for her comments.

Legislator Jonke questioned if the NYIC has spoken with law enforcement in Putnam County, such as the Sheriff.

Ms. Agudelo stated she has not spoken to the Putnam County Sheriff, but would be happy to do so.

Legislative Counsel Firriolo stated there was a claim of an inaccuracy in the resolution regarding the marking of "Not for Federal Purposes" being mandatory. He stated the resolution speaks to what is required by the Driver's License Access and Privacy Act requires, and it does not require that it be marked. He stated whether it is in a Federal law is a separate issue. He stated earlier iterations of this bill contain a requirement that had specific font size and marking that was removed from the final version. He stated the State Legislature made a conscience decision not to have the final version of the bill include the demarcation requirement. He stated as drafted the resolution is correct.

Ms. Agudelo stated the Federal law supersedes any State law.

Legislator Albano stated he would support a reasonable model, and he would like to see a better version than the current legislation.

Chairman Sullivan stated there are many concerns regarding how quickly this moved through the State Legislature without the proper planning of implementation. He stated at some point this may be the right thing to do, however this legislation is lacking.

Legislator Albano stated the amount of \$57 million per year was mentioned; however he is not confident the County would see a lot of that revenue. He stated in fact it may be a big expense for a small County such as Putnam.

Ms. Agudelo stated she would like to offer herself as a resource because she strongly believes that the concerns raised tonight are being addressed in this legislation. She stated she would be happy to meet with local law enforcement.

Chairman Sullivan requested that Ms. Agudelo leave her card and thanked her for her time and comments.

Nicholas Moran, resident, stated is also in support of the Driver's License Access and Privacy Act. He stated the core function of the DMV is to license drivers. He stated in Kazakhstan he worked in a fraud department where he saw many individuals who overstayed their Visas, which is the most common reason why people are in the country illegally. He stated this is going to continue. He stated he believes this legislation makes it known that a person who is not an American citizen is committing a crime if they sign up for voter registration. He stated it is not possible to prevent this and he understands the concerns. He stated the benefits to public safety outweigh the concerns. He stated his mother is an immigrant and when she came to the Country there was no question about her citizenship status when she took her driver's test. He stated he understands changes have been made since that time. He stated at the end of the day the DMV is there to license drivers.

Connor Brennan, resident of Cold Spring, stated from 2012 to 2018 he was legally living in Montreal, Canada on a student Visa. He stated his Visa stipulated that he could not work; however he needed a source of income in order to survive. He stated he knew very little French, the official language of Montreal. He stated he found himself in a position of some of the undocumented immigrants in Putnam County and New York State. He stated he would like to bring perspective from their end to this meeting, although his situation pales in comparison to their experiences. He stated while in Montreal he accepted an off the books job as a dishwasher in a restaurant. He stated he constantly feared that he would lose his job and source of income. He stated the work environment was dangerous and he was electrocuted more than once. He stated one of the worst things that happened there was that he was paid with a fake \$100 bill. He stated when he confronted his boss about it he was told to exchange it somewhere. He stated undocumented immigrants are the most vulnerable within our Country and he believes they should be offered protection. He stated with respect to the legislation that

would allow undocumented individuals to obtain a driver's license, it would allow them to live dignified lives. He stated in this area driving is a necessity. He stated he hopes the Committee takes the information provided tonight into consideration.

Chairman Sullivan thanked the public for their comments. He stated he would like to send a message to the State Legislature the concerns this legislation raises must be addressed.

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

Item #8 - Update/ Veterans' Service Medal Advisory Panel

Legislator Castellano stated the Panel is in the process of planning an event on November 10, 2019 at 2:00pm for Veterans who have not yet received a medal. He stated they have over 200 applicants so far. He stated there will also be smaller events in each town. He stated he has been in touch with the Town of Southeast to possibly present medals at their Fall Festival. He stated Veterans will be given the option of receiving a medal at a small town event or at the larger event on November 10th. He stated the date of November 10th was chosen because it is a Sunday and it will not conflict with Veterans Day events being held on November 11th. He stated this large event will coincide with the 100th anniversary of the first medals being presented. He stated they have also been going to the homes of Veterans who are ill and may not be able to attend a ceremony to present them with a medal. He stated he went to Cold Spring last week with Director of Veterans Affairs Karl Rohde and Panel Member Richie Othmer to present a medal at a Veteran's home. He stated there were about 10 other Veterans there as well and it was a very nice event. He stated so far they have given out 27 medals. He encouraged everyone to see pictures from the ceremonies on their Facebook page.

Item #9 - FYI/ June & July Litigation Reports – Duly Noted

Item #10 - Other Business – None

Item #11 - Adjournment

There being no further business at 8:56pm, Chairman Sullivan made a motion to adjourn; Seconded by Legislator Albano. All in favor.

Respectfully submitted by Administrative Assistant, Beth Green.