



DRAFT MINUTES
Legal Affairs Committee
January 15, 2015
Agency Meeting
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**Legal Affairs Committee
January 15, 2015**

The Legal Affairs Committee convened at 11:35 am

Legal Affairs Committee Members Present:

Karen Feldman, Chair, Arthur Lussi, Sherman Craig and Bradley Austin (DED)

Richard Booth - not present

Other Members and Designees Present:

Leilani Ulrich, Chairwoman, William Thomas, Dan Wilt, Robert Stegemann (DEC) and Dierdre Scozzafava (DOS)

Local Government Review Board:

Gerald Delaney, Chairman

Agency Staff Present:

Terry Martino, Executive Director, Sarah Reynolds, Associate Counsel, Paul Van Cott, Associate Attorney, Jennifer McAleese, Senior Attorney and Mary Palmer.

Approval of November 2014 Minutes

By motion of Mr. Lussi, seconded by Mr. Craig, the Legal Affairs Committee unanimously approved the November 2014 Legal Affairs Committee minutes.

Counsel's Report: Sarah Reynolds, Associate Counsel noted the report on Jurisdictional Inquiries and FOIL requests for the months of November and December.

Sherman Craig noted the average response time for Jurisdictional Inquiries continues to be in the two week time span which seems reasonable adding that he appreciates the staffs' continual concern about response time.

Proposed Emergency Project Review Regulation

Jennifer McAleese, Senior Attorney, gave a brief update on the proposed emergency project rule making. The Board previously authorized the rule for public comment in March 2014.

Ms. McAleese stated that all Executive Branch rule makings are to be approved by the Division of Budget's Regulatory Review Unit. She added in December 2014 the staff received the Regulatory Review Unit's approval of the proposal but during that review process several changes were made to the March 2014 version.

Ms. McAleese stated that staff did not want to proceed with the rule making process until the rule was brought back to the Board for approval with these changes. She added the staff recommendation is to request the Board to approve the draft resolution, which would authorize staff to file a Notice of Proposed Rule Making.

Ms. McAleese noted that staff proposes to hold two public hearings, March 4th in Ray Brook and March 5th in Albany. She added that once public comment has expired staff would bring the proposal back to the Board for further consideration and possible adoption.

Sherman Craig asked who a person would appeal to if they were denied an emergency certification especially if they wanted to appeal it immediately. Ms. McAleese stated that they would come to the Board.

Mr. Craig stated that he did not want a person who is in an emergency to have to wait. Mr. Van Cott added that under the Delegation Resolution it would go to Chairwoman Ulrich especially if it was between Agency meetings.

Karen Feldman commented that if you know a storm is coming and something needs to be done before it gets there this rule would allow that. Ms. McAleese added that the Governor often declares those types of events as a state of emergency.

Bradley Austin asked what would not constitute an emergency. Ms. McAleese stated that staff would review each on a case-by-case basis, as some would have enough time to go through the normal process.

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Ms. Feldman asked how the Board would be notified on the emergency permits. Ms. McAleese said they would be in the monthly mailing packets and in the Regulatory Programs Division and the Deputy Director would be reporting on them. She added that if the Board would like to know as they happen, staff could discuss the issue with the Executive Director and Deputy Director of Regulatory Programs.

Ms. Feldman asked for a motion to proceed with the Notice of Proposed Rule Making.

By motion of Mr. Craig, seconded by Mr. Lussi, the Resolution was unanimously approved to go to the Full Agency.

Old Business

None

New Business

None

Karen Feldman, Committee Chair adjourned the meeting at approximately 11:55 am.