

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

Members: Chairwoman Addonizio, Legislators Gouldman & Scuccimarra

**Wednesday May 13, 2015
(Immediately Following Economic Development beginning at 6:30pm)**

The meeting was called to order at 7:33 P.M. by Chairwoman Addonizio who led in the Pledge of Allegiance. Upon roll call, Legislator Gouldman, and Chairwoman Addonizio were present. Legislator Scuccimarra was absent.

Item #3 - Approval of Minutes – April 16, 2015

The minutes were approved as submitted.

**Item #4 - Discussion/ Proposing Local Law to Create Animal Cruelty Registry
a) Orange County/ Draft Local Law/ Animal Abuser Registry/ FYI**

Deputy County Attorney Anna Diaz stated she prepared a draft local law after reviewing the laws from surrounding Counties.

Chief of Putnam County Society for the Prevention of Cruelty to Animals (PC SPCA) Kenneth Ross stated he had reviewed Deputy County Attorney Diaz's draft local law and would like to review some things within the document. He stated after the February Rules Committee Meeting when this topic was discussed, the PC SPCA put together a draft law as well. He stated at the February Meeting, Legislator Albano suggested making the law as strict as possible. He stated the PC SPCA went a little further than the draft local law prepared by Deputy County Attorney Diaz. He stated for example, if you owned a goat and a neighbor came and dismembered your goat in a vicious way, Buster's Law could not be charged because the goat is not a "companion animal." He stated regular animal cruelty could be charged and would be a misdemeanor, but it could not be taken to the felony level. He stated in New York State animals are looked at as property. He stated depending upon the value of the animal, criminal mischief could be charged as a felony.

Chief Ross then handed out the draft local law drawn up by the PC SPCA.

Chairwoman Addonizio made a motion to waive the rules and accept the additional;
Seconded by Legislator Gouldman. All in favor.

Chief Ross stated the PC SPCA gets their authority from numerous laws. He stated in their draft law, they quoted the Not-for-Profit Corporations Law, which would empower the PC SPCA to enforce any law pertaining to the prevention of cruelty to animals. He stated 99.9% of animal cruelty crimes begin with the PC SPCA, therefore they are aware of the

situation from the beginning. He stated including the PC SPCA in the enforcement section of the law will be beneficial.

Chairwoman Addonizio stated in Article 26 “any violation of the registry would need to be enforced by the Sheriff’s Department.” She questioned if that would still be the case.

Chief Ross stated the law should state any and all Police Agencies and Officers, as well as Officers of the Putnam County SPCA have the authority to enforce the law. He stated if the PC SPCA is controlling the registry, they will be aware that someone is attempting to obtain an animal, or has an animal. He stated in the local law drafted by the PC SPCA, they made it stricter by including the attempt of adopting or purchasing an animal as a crime. He stated at the time of conviction, the person is notified that they are not allowed to have an animal. He stated the PC SPCA has attempted to make the law as broad and as strong as possible.

Chairwoman Addonizio questioned what would happen if a family member had an animal.

Chief Ross stated the convicted animal abuser would not be allowed to live in a residence where there is an animal. He compared this to a convicted pedophile not being allowed to live in a residence where a child or children live. He stated it may sound harsh, however the process has taken place where an arrest has been made and the person has been convicted. He stated arrests are not made unless it is a very bad situation. He provided an example of “the grandmother who forgot to put water out” where an arrest would not be made. He stated he believes the PC SPCA should be included in the enforcement part as they are part of the book keeping part.

Chairwoman Addonizio questioned why the PC SPCA was not included in the enforcement in the draft local law prepared by Deputy County Attorney Diaz.

Deputy County Attorney Diaz stated since the District Attorney’s Office prosecutes these crimes once conviction is in place, she believed it was a more natural flow to contact the Sheriff’s Department. She stated she will look over the draft local law provided by Chief Ross.

Chief Ross stated the Law Department’s draft local law includes 11 laws that would mandate the abuser be placed on the registry. He stated misdemeanors and felonies are convictions of the Agricultural Market Law. He stated 90% of the time a misdemeanor is lowered to something else. He stated if it does stay at a misdemeanor, that person should be on the registry. He stated in the local law drafted by the PC SPCA, they listed all misdemeanors and felonies. He stated they also added criminal mischief into the penal code. He stated petit larceny was also added, in the case of an animal being stolen.

Chairwoman Addonizio stated she is unsure about the petit larceny. She questioned what would happen in the case of a divorce.

Chief Ross stated that would be a civil case and the PC SPCA would not get involved. He stated the ownership must be established, and that would be done by a judge. He stated the licensing for the animal does not prove ownership because there is often only one (1) spouse listed on the license. He stated the PC SPCA also added the obligation of the seller or adoption agency to notify the PC SPCA of a registered abuser attempting to obtain an animal. He stated going outside the County to purchase or adopt an animal is also a crime and is listed in the Law Department's local law, however the PC SPCA made it a class A misdemeanor. He stated if a convicted abuser is unable to pay the \$50 registry fee they would go to a court with jurisdiction and the judge could waive the fee.

Legislator Castellano stated the registry is a great idea. He stated he is concerned about the seller or adopter being put into a situation by telling the person they cannot purchase or adopt an animal.

Chief Ross stated when the person is put on the registry they are notified that they are unable to have an animal. He stated the sellers will need to be notified that they are responsible for checking the registry before allowing someone to purchase or adopt an animal.

Legislator Castellano stated adding the law of the attempted crime is burdensome to the pet store owner or adopter as they would be responsible for contacting the PC SPCA.

Chief Ross compared the pet store worker or adopter calling the PC SPCA in the case of an attempted crime to a pharmacist contacting the police if someone came in with a false prescription.

Legislator Castellano stated he believes having the registry in place is a must. He stated he would like to begin with the registry and then enact the attempted crime law if necessary. He stated if someone went into a pet store and inquired about an animal, it would be onerous on the pet store employee.

Chief Ross stated the registry would only be checked once the person attempted to purchase or adopt the animal.

Legislator Castellano stated the laws are already in place with the exception of the attempted crime law.

Chief Ross stated the registry law is not yet in place. He stated the attempted crime law would only come into effect if there was a registry.

Legislator Castellano clarified that there are two (2) new laws being created, the registry law and the attempted crime law.

Chief Ross stated if a registered abuser attempts to obtain an animal that is a crime. He stated it is also a crime if the pet store employee or adopter does not contact the PC SPCA in the case of a registered abuser attempting to purchase or adopt an animal.

Legislator Castellano stated he is concerned with the pet store employees or adopters contacting the PC SPCA. He stated they are responsible for checking the registry and notifying the person they are unable to purchase or adopt the animal. He stated it is not their job to report the person to the PC SPCA.

Chief Ross stated professions such as Law Enforcement Officers, Nurses, Teachers, etc. are all mandatory reporters. He stated they are responsible by law to report anything that may be child abuse. He stated this is the same situation with animals.

Legislator Nacerino questioned how this would work if the person went out of the County to purchase or adopt an animal. She stated people often advertise animals in the Penny Saver or even give away free animals in front of stores.

Chief Ross stated the situation of people offering free animals outside of storefronts is another issue. He stated often times; those animals are diseased or have other issues.

Legislator Nacerino stated awareness needs to be raised in conjunction with enforcement.

Chief Ross agreed with Legislator Nacerino. He stated if and when the law is in place press releases should be sent out and it should be covered in the local newspapers. He stated once it is taken seriously, it will work.

Legislator Nacerino requested Chief Ross to review how enforcement works in Dutchess County or Connecticut.

Chief Ross stated if someone tried to circumvent the law by going outside of the County, it is a Class A Misdemeanor. He stated the person's neighbor is often aware of what took place and will call if they see an animal at the house. He stated neighbors do not take the situation lightly.

Legislator LoBue stated she supports the registry. She stated this is a complicated issue that requires legally formulating a plan. She questioned if the laws being recommended tonight were the same as the laws that were in place in Westchester County.

Chief Ross stated the SPCA is not involved in the law in Westchester County. He stated a woman from the Bar Association in Westchester assisted him in reviewing the local law the PC SPCA created. He stated in Westchester the law has less restrictions and regulations. He stated since the Westchester SPCA was not involved, things such as petit larceny and criminal mischief as they relate to animals were not included. He stated the Assistant District Attorney who handles animal cruelty cases in Westchester did not have a hand in creating the law.

Legislator LoBue stated the District Attorney's office should be included in this process as well since they prosecute such cases. She stated the Legislature must ensure that any law enacted can be enforced legally.

Chairwoman Addonizio stated there may be some breeders with no access to a computer. She questioned if there is a phone number to call in order to check the registry.

Chief Ross stated yes, they can call the PC SPCA. He stated it is a 24 hour phone number.

Deputy County Attorney Diaz stated she will review the new laws put together by the PC SPCA.

Item #5 - Discussion/ Overview of FOIL Request Process/ County Clerk Bartolotti

Chairwoman Addonizio made a motion to waive the rules and accept the additional; Seconded by Legislator Gouldman. All in favor.

County Clerk Michael Bartolotti stated when he became the County Clerk in January, he reviewed the various processes handled by the County Clerk's Office. He stated the Freedom of Information Law (FOIL) process was up to code and nothing has been changed. He stated each Department does a phenomenal job with FOIL requests. He stated the amount of requests coming in has increased, as has the complexity. He stated some requests are handled electronically, however that is sometimes complicated. He stated there are Federal, State, and County laws that require the County Clerk's Office to have an up to date subject matter list. He stated each Department submits a list to the County Clerk's Office of which records they maintain. He stated he would like to have that list available on the website. He stated the reason for this is so that the public can check which Department they need to send their FOIL request to. He stated in the memorandum he handed out, there are guidelines for Department Heads to know what the County Clerk's Office needs in order to process the FOIL requests. He stated all FOIL requests go through the County Clerk's Office, and then are sent to the Department the information will be coming from. He stated the only exception is the Sheriff's Department as they handle their own FOIL requests. He stated requests should be attended to within five (5) days, whether the information is granted, denied, or if more time is needed. He stated as a Government, there is an obligation to be transparent and to provide necessary information to the citizens that are represented by the Government. He stated it is important to remain cognizant that there are laws that protect certain information. He stated it is important to consult the County Attorney's Office and the County Clerk's Office in regards to FOIL requests.

Chairwoman Addonizio questioned why a FOIL request might be denied.

County Clerk Bartolotti stated a request for personal information may be denied. He provided an example of how there is a law protecting the information of pistol permit

holders. He stated there are also commercial exemptions, in the case of someone using the information for pecuniary gain. He stated a request can be denied for unwarranted invasion of privacy as well. He again encouraged Department Heads to utilize the Law Department when making a decision regarding a FOIL request to ensure the right decision is being made.

Legislator Gouldman questioned if this was a burden on the Law Department.

County Clerk Bartolotti stated it has gotten easier now that the requests are coming in electronically. He stated an email address was created (foil.officer@putnamcountyny.gov) for constituents to send their requests. He stated there is also a portal on the website where information can be filled out and once the person presses submit, it goes directly to the above email address. He stated it is working very well and the County Clerk's Office has been able to process the requests more quickly now that they are electronic.

Legislator LoBue stated the County is required by law to keep a copy of each FOIL request.

County Clerk Bartolotti stated that is correct. He stated as all requests go through the County Clerk's Office first, a paper trail is important. He stated it is helpful to look back at requests and what was provided in the case of someone claiming they did not get information they requested.

Chairwoman Addonizio questioned how long the requests must be kept on file.

County Clerk Bartolotti stated granted FOIL requested are required to be kept for one (1) year and denied are required to be kept for seven (7) years. He stated the County Clerk's Office keeps them longer than one (1) year.

Legislator LoBue questioned about matrimonials.

County Clerk Bartolotti stated that is another law. He stated all court records do not fall under FOIL. He stated they fall under the Judiciary Law. He stated matrimonials are sealed under Domestic Relations Law. He stated the only people who may see a matrimonial are the parties and the attorney of record. He stated it stays that way for 100 years, and then they may be viewed for historical reasons.

Legislator LoBue stated she was contacted by a constituent who had gone to Board of Elections to request information and they were directed to the Clerk's Office. She stated she spoke with Deputy County Clerk James McConnell because she was concerned about issues with timing. She stated in the times of an election, people need access to information quickly.

County Clerk Bartolotti stated the County Clerk's Office will handle the request with no issue at all. He stated when we ran last year Board of Elections did a great job providing information. He stated it is the determination of the Commissioner of Board of Elections

whether they will disclose the information or not. He encouraged Board of Elections to provide requested information to the person asking, but to also have the person fill out the County form and email it to the County Clerk's Office. He stated the reason for this is to keep a paper trail.

Legislator LoBue questioned what the policy is in the Sheriff's Department regarding FOIL requests.

County Clerk Bartolotti stated he is unaware of the policy in the Sheriff's Department as they handle it themselves. He stated blotters are public.

Legislator LoBue stated she is surprised that a police record would be released to the public. She stated for instance, if someone was convicted of a DWI, that information can be requested.

County Clerk Bartolotti stated a DWI conviction is public record. He stated felony sentences from the Putnam County Court are also public record. He stated everything in a criminal file is public, except for the rap sheet. He stated if records are sensitive in nature, they will have a redacted copy that remains in the case and available, while the un-redacted copy is sealed.

Legislator LoBue clarified that the sole discretion is that of the Sheriff's Department.

County Clerk Bartolotti stated yes, for Sheriff's records.

Legislator LoBue questioned if the Sheriff's Department confers with the Law Department.

County Clerk Bartolotti stated he is unaware.

Chairman of the Putnam County IDA Richard Ruchala questioned if a request for information for all of the gun holders in Putnam County would be granted.

County Clerk Bartolotti stated that request would not be granted.

Legislator LoBue questioned how the County is doing with the opt-out forms.

County Clerk Bartolotti stated the forms are going very well. He stated he dropped off the forms in each Town and Village Hall within the County as well as every gun shop in the County. He stated there were news releases and information was available on the County website as well.

Legislator Castellano questioned what the percent of opt-outs are.

County Clerk Bartolotti stated of those who are active, over 75% have opted out.

Legislator LoBue questioned how many active permits are in the County.

County Clerk Bartolotti stated there are between 10,000 and 11,000 active permits.

Legislator LoBue questioned what happens if a permit holder passes away.

County Clerk Bartolotti stated if a handgun is registered only to the person who has passed away, the police will take it. He stated nothing can be done with the firearm until the estate is administered. He stated it is a good idea to co-register guns so the other registrant may take the firearm upon the other registrant's death.

Legislator Castellano congratulated County Clerk Bartolotti on a great job with getting things online.

Item #6 - Litigation Report/ FYI – Duly Noted

Item #7 - Other Business - None

Item #8 - Adjournment

There being no further business at 8:36 P.M. Chairwoman Addonizio made a motion to adjourn; Seconded by Legislator Gouldman. All in favor.

Respectfully submitted by Administrative Assistant Beth Green.