

**SPECIAL MEETING  
GENESEE COUNTY LEGISLATURE  
Batavia, New York  
Tuesday, July 17, 2012**

Chair Hancock called the meeting to order at 7:30 PM in the Legislature Conference Room. All members were present.

An out-of-state travel request for Angela DiRosa & Jen Waldron to travel to Kansas City, MO for the National Conference on Tobacco & Health August 15-17, 2012 was approved upon motion of Legislator Lawrence seconded by Legislator Leadley. Legislator Cianfrini questioned the need to send two representatives for what appeared to be an information gathering program. Legislator Leadley stated she had reviewed the travel request and accompanying explanation and felt there were a number of breakout sessions that could not be fully covered by one attendee. She supports the request to send two representatives. County Manager Gsell noted that this is a three county program and when they return, attendees will be presenting that information and training personnel on the program content. This is part of the grant stipulation. Legislator Clattenburg asked who would be covering the Office in everyone's absence. The Office will be covered by Kathy Frank and an Americorps volunteer.

County Attorney Zambito explained the current Notice of Claim procedure which requires people intending to sue the County to serve notice within 90 days on at least one of several specified County representatives. Once served with notice, the County has the right to hold dispositions and gather evidence for the defense of the claim. If the procedures don't follow the procedures, they cannot bring suit. The changes adopted by the State Legislature and awaiting the Governor's signature excuse the filing deadlines even though Judges have that authority now. It also allows for service on the Secretary of State and not the County directly. Serving the Secretary of State involves a fee. Mr. Zambito did express his concerns about this legislation to Senator Ranzenhofer and Assemblyman Hawley prior to its adoption. Legislator Stein made a motion to invoke Rule 19 for the purpose of considering the following resolution which was seconded by Legislator Clattenburg and approved unanimously.

**RESOLUTION NO. 278 MEMORIALIZATION IN OPPOSITION TO UNIFORM NOTICE OF CLAIM ACT-APPROVAL OF**

Legislator Ferrando offered the following resolution:

**WHEREAS**, The Assembly and Senate have passed the "Uniform Notice of Claim Act," (S07641-B, A10657-A), and

**WHEREAS**, This act amends state law and permits the filing of notices of claim against local governments in New York with the Secretary of State, as opposed to with the local governments themselves, and

**WHEREAS**, This act also excuses non-compliance with the time limits for filing, provided they resulted from "good faith" mistakes and the public entity can't prove substantial prejudice as a result, and

**WHEREAS**, This act makes it easier to commence litigation against local governments who already are beset with claims. Now, therefore, Be it

**RESOLVED**, That the Genesee County Legislature hereby urges the Governor to disapprove the Uniform Notice of Claim Act (S07641B and A10657-A).

Legislator Cianfrini seconded the resolution which was adopted by 326 votes.

Prior to roll call on the above resolution Legislator Bausch asked if it were still possible under the new legislation to serve the County directly with the claim. It is. Legislator Cianfrini asked the legislation changed the Notice of Defect rules. It does not.

Consideration of the approval of an application for Assisted Living Beds was the next item on the Agenda. County Manager Gsell reported that when the Nursing Home structure on Bank Street was planned, it was the intent to have an assisted living unit in conjunction with the Skilled Facility. The DOM was the result. Currently the 160 Skilled Beds are financed by 85% Medicaid payment. The DOM represents a 50/50 split between the State Department of Health and the Department of Social Services. New State initiatives have opened an opportunity to return to those earliest desires. 6,000 Assisted Living Beds are being planned. In the Berger Report Genesee County was identified as needing additional beds. The Nursing Home Administration has been working hard to look at all options to bring the Facility out of the red. The Assisted Living Program may offer an opportunity. Prior to any acceptance of the beds much research will need to be done including information from DSS and the Health Department. To apply for the beds, Harris Beach is being consulted because operation by an LDC is required. Counties cannot apply for the ALP beds. Questions about the change included responses indicating no new capital investment, no change in staffing levels would be required if the application is successful. There is a very limited window for the application of the beds and that is why the Special Meeting of the Legislature was called. Assisted Living beds were part of the CGR Report recommendations. Legislator DeJaneiro indicated his support to proceed with the application. County Manager Gsell stated that currently all the DOM beds are double occupancy. One of the possibilities in moving to ALP is to have single room set-up with 40 beds. Double occupancy has been cited as one of the impediments in filling the beds. Legislator Hancock noted her concern about the LDC, noting the Legislature would still have financial responsibility for the facility but possibly not the same control. She expressed concern that such a change may have ramifications should the County decide to sell the facility. Although the ALP beds would be a separate stand alone non-profit facility not under the control of the county, the County would still continue to own the property. Ulster County went to an LDC in 2010 although this was for the whole facility, not just a portion of it. Employee status raised a question which will be explored. There are many details to be worked out. The question before the Legislature this evening is permission to apply for the beds. Legislator Cianfrini called the question which was seconded by Legislator Leadley and approved unanimously. Legislator Cianfrini made a motion to invoke Rule 19 for the purpose of considering the following resolution. This was seconded by Legislator Leadley and approved unanimously.

**RESOLUTION NO. 279 PERMISSION TO APPLY/ LDC FORMATION/  
NURSING HOME/ASSISTED LIVING PROGRAM –  
APPROVAL OF**

Legislator Cianfrini offered the following resolution:

**WHEREAS**, Genesee County has provided institutional Long Term Care since 1974 at the Genesee County Nursing Home, and

**WHEREAS**, Said Long Term Care has been modeled as a continuum of care with the Adult Home, Adult Day Care, Rehabilitation and Skilled Nursing Facility services, and

**WHEREAS**, New York State has heretofore precluded public nursing home operators like Genesee County from operating an Assisted Living program as a discrete financial and quality of care program, and

**WHEREAS**, New York State as part of the Berger Commission Report identified potential shifts in levels of care Statewide, Regionally and by County for future Long Term Care beds, and

**WHEREAS**, Statewide 6000 ALP level of care beds were recommended for “new” growth and Genesee County was identified as not having enough community wide Long Term Care beds by approximately 30 units, and

**WHEREAS**, New York State has opened an opportunity for Long Term Care providers such as Genesee County to apply for ALP designation for our 80 bed Adult Home/Domiciliary, and

**WHEREAS**, It is in the best interest of Genesee County to apply for said designation from both a financial and programmatic standpoint which application deadline is July 18, 2012. Now, therefore, Be it

**RESOLVED**, That the Chair of the Genesee County Legislature and/or appropriate administrative persons in the County Manager’s Office/Nursing Home Administration are hereby authorized and directed to execute said application to New York State Department of Health, and Be it further

**RESOLVED**, That as part of the application process and formation of a separate LDC under New York State statutes through the services of Harris Beach, PLLC, 99 Garnsey Road, Pittsford New York 14534, be retained at a fee not to exceed \$15,000 to facilitate said ALP application and formation of a new Genesee Senior Living LDC.

Legislator Leadley seconded the resolution which was adopted by 326 votes.

At this time Legislator DeJaneiro presented a Commendation to Nursing Home Controller Christine Kuehl who is retiring at the end of the week. Nursing Home Administrator Schaller presented Mrs. Kuehl with a small token of appreciation.

The meeting was adjourned at 9:00 PM upon motion of Legislator Bausch seconded by Legislator Ferrando.