



**NEWS FROM THE OFFICE OF
ULSTER COUNTY EXECUTIVE MIKE HEIN**



FOR IMMEDIATE RELEASE

March 23, 2011

Contact: James J. Hanson

845.802.3138

jhns@co.ulster.ny.us

COUNTY EXECUTIVE ISSUES FIRST VETO

Kingston, NY- Ulster County Executive Mike Hein issued his first veto today. On March 15, 2011, the Ulster County Legislature unanimously passed Resolution No. 75 entitled, "Authorize the Chairman of the Ulster County Legislature to Create an Ulster County Charter Revision Commission". Unfortunately, the resolution was legally flawed and after consultation with the County Attorney, County Executive Hein had no choice but to issue this veto.

"As County Executive, one of my sworn duties to protect the integrity of the Ulster County Charter," said Ulster County Executive Mike Hein. "Resolution No. 75 contains legal flaws and I have no choice but to issue a veto. I look forward to working with the Legislature on the appropriate implementation of a Charter Review Commission as prescribed by the Charter."

Majority Leader Paul J. Hansut said, "I have spoken with the County Executive and many of my Legislative Colleagues and I don't see any disagreement over this veto. Both Minority Leader Provenzano and I will move forward with our appointments to the Charter Review Commission as established in the Ulster County Charter."

Minority Leader Jeanette M. Provenzano said, "Understanding that this is veto is of a legal nature, recommended by the County Attorney, I don't have any problem with it. It does not change the original intent of the Majority Leader and Minority Leader to move forward with our appointments to the Charter Review Commission."

According to County Attorney Beatrice Havranek, "While it may have been unintentional, the resolution, as written, could erode the authority of the Ulster County Charter. Specifically, the

resolution in the final “RESOLVED” references only a portion of the Ulster County Charter as it relates to the Ulster County Charter Revision Commission.

The County Executive commented, “Unfortunately, the legal flaw ignores the power vested in the Charter Review Commission to go directly to the voters for their approval of proposals, amendments and revisions to the Charter.”

He added, “It is important that we prepare for the work of the Charter Review Commission. As such, I have directed the County Attorney to work with legislative counsel and the Budget Director to advise the Ways and Means Committee as they prepare a budget resolution that will enable the Charter Review Commission to begin its work.”

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Attachment 1: County Attorney Opinion Memorandum

ULSTER COUNTY ATTORNEY

240 Fair Street, PO Box 1800
Kingston, New York 12402
845-340-3685 • Fax: 845-340-3691

MICHAEL P. HEIN
County Executive

BEATRICE HAVRANEK
County Attorney
845-340-3685

KRISTIN A. GUMAER
Assistant County Attorney
845-334-5402

SUSAN K. PLONSKI
*Assistant County Attorney/
Contract Manager*
845-340-3441



Service by facsimile or e-mail not accepted

CLINTON G. JOHNSON
First Assistant County Attorney
845-340-3685

WILLIAM N. CLOONAN
Assistant County Attorney
845-340-3685

ROLAND A. BLOOMER
*Assistant County Attorney/
Assistant Contract Manager*
845-331-2447

MEMORANDUM

TO: Hon. Michael P. Hein
Ulster County Executive

FROM: Beatrice Havranek, Esq. *BH*
Ulster County Attorney

DATE: March 22, 2011

RE: Opinion
Resolution No. 75 of March 15, 2011 entitled "Authorizing the
Chairman of the Ulster County Legislature to Create an Ulster County Charter
Revision Commission"

Please be advised that I have reviewed the resolution above referenced, a copy of which is attached hereto and made a part hereof, and it is my recommendation that you veto this resolution for the reasons set forth below. I have also attached the relevant portion of the Ulster County Charter.

While it may have been unintentional, the resolution, as written, intends to usurp the Ulster County Charter. Specifically, the resolution in the final "RESOLVED" references only a portion of the Ulster County Charter as it relates to the Ulster County Charter Revision Commission. It would appear that the resolution is attempting to usurp the authority of the Ulster County Charter Revision Commission that is set forth in Section C-5(B)(4) which states the following:

*"(4) The Commission, by two-thirds vote of its members,
may place directly before the voters for their approval at*

referendum proposals to amend or revise Charter provisions pertaining to the County in Article II or III of the Charter. These amendments or revisions must be filed with the Ulster County Board of Elections timely so as to allow a vote upon it at the next scheduled general election after the Commission reports. No later than one month before the scheduled referendum at which its adoption will be considered, the Commission must hold at least one public hearing on any Charter change proposed directly to the ballot. Amendments or revisions proposed directly to the ballot by the Commission will be deemed adopted if approved by a majority of voters casting ballots on the question during the next scheduled general election. Notwithstanding other provisions of the Charter, if the Charter Commission proposes a matter for direct ballot consideration, the Commission will continue to function until the day after election day of the year of consideration of its proposal on the ballot."

It is my opinion that the entire resolution, as written, is unnecessary in that there is no power vested in the Chairman of the Legislature to "create" the Ulster County Charter Revision Committee. Nor does the Legislature, as a body, have the power to require appointments. Those powers are clearly stated in the Charter and they belong solely to the Executive (who appoints five members to the Commission) and the majority leader and minority leader (who appoint three members each). (See Section C-5(B) of the Ulster County Charter.)

At this stage, the only power vested in the Legislature is to provide "*such funds as are necessary for the Commission to conduct its business effectively.*" (See Section C-5(B)(2) of the Ulster County Charter.) As such, a budget resolution would be appropriate.

Thus, it is my opinion that the resolution is seriously procedurally flawed. As such, it is respectfully recommended that you veto this resolution.

BH:gr
enclosure