

Legislative and Research Committee Minutes  
July 2, 2012 – 4:00 p.m.

Present: Chairman Sausville; Supervisors Lewza, Raymond, Rowland, Richardson, Yepsen, Collyer, Southworth, and Wood; Spencer Hellwig, Administrator; Sam Pitcherelle, Cindy Baker, Treasurer; Steve Dorsey, County Attorney; Ryan Moore, Mgmt. Analyst; Michele Madigan, Finance Commissioner Saratoga Springs; Justin Wright, Interactive Travel Association; Press.

Chairman Sausville called the meeting to order and welcomed all in attendance.

**On a motion made by Ms. Yepsen, seconded by Mr. Rowland the minutes of the June 4, 2012 meeting were approved unanimously.**

Mr. Sausville gave a brief overview of the Occupancy Tax as follows: He asked whether the tax was a tax on the person renting the room or is it a tax on the business. He said if it was a tax on a business, there is the possibility that one business could advantage themselves over another business if there were certain exemptions, such as service fees that might be excluded from the tax.

Mr. Lewza asked if the Occupancy Tax Local Law would hurt small business. Mr. Hellwig said the intent is to make a decision. Right now the on line companies have the ability to base the charges on what they are paying the hotels instead of what they are collecting from the customer. He said the county has identified through some projections on the amount of commerce that has been generated, with the last year being 2011, what is being remitted may not necessarily reflect what is being collected. This is not a new tax, he said. The occupancy tax has been in place since the late 1970's, and this is just a revision. At the time the occupancy tax was approved there were no on-line booking companies. At this time we are just trying to update it and include a segment of the business community that now is, as indicated by the State, taking on the role as a hotel owner and as such should be held to the same standard that the hotels are held in terms of collecting occupancy tax. The county has an occupancy tax, of 1% with the majority of it going to the City of Saratoga Springs where the city has an additional 5%, which is collected only within the city boundaries. Based on projections of the amount of commerce and bookings, there are estimates of anywhere from 10% to 20% of the hotel bookings being done on line. Using the 10% as being handled on line it is determined that approximately \$54,000 of revenue is being lost within the city and another \$15,000 is being lost outside the city. This is not a huge number, but as each year goes by the on-line booking companies are taking a bigger piece of the total, he said. Five to ten years ago it was 1% of the total. He said, this is a matter of equity, if the money is being collected then it should be remitted. Mr. Hellwig said New York City has already taken this step and we are modeling our law after theirs.

Ms. Yepsen said she has tried to address all parties on each side of the issue including the President of the NYS Hospitality and Tourism Association, hotel owners, as well as, the Convention and Tourism Bureau of Saratoga County.

Mr. Sausville introduced Mr. Wright from the Interactive Travel Association. Mr. Wright said this is not a whole sale business model; it is a mercantile based business model. On line travel companies and traditional travel agents do not purchase hotel rooms. They are internet marketing firms that are involved in the activities of trying to fill rooms for hotels. He said the hotels determine the rate at which municipalities, counties and governments should be receiving the revenue, so if they believe that the true value of the hotel room was \$100 then they should be remitting that \$100. He said they are in the business of facilitating travel services.

Mr. Hellwig said the county was approached by the hotel representatives and asked to carry this legislation to you for approval. This has also been supported by the American Hotel and Lodging Association and other national associations.

Mr. Dorsey said the county would be amending the local law of 1977, which was the original local law opposing occupancy tax in Saratoga County. This would amend some definitions to the local law and would include a new definition of room marketers. He said the amended local law has been modeled after the State's revisions to their law. Last month, some additional revisions were adopted that will not take effect until September 1, 2012. Those revisions, which were done with the input of the rooming market industry, allowed for the breaking out of services charges, amusement charges and other related charges, which are to be put on a separate invoice and provided to the customer, retained by the marketing industry, and forwarded to the County Treasurer when submitting quarterly tax returns. The County Local Law would not take effect until October 1, 2012. The process moving forward would be that the Board would set a Public Hearing in August, and adoption of the local law amendments would take place at the Board Meeting in August.

Ms. Yepsen asked how this would be enforced. Mr. Dorsey said they will be subject to penalties of 5% for any tax not paid. They are required to file quarterly returns and if they don't, there are penalties for that. If they don't collect the tax and remit it, there are penalties of a misdemeanor and a fine of \$1,000; officers of corporate operations would be personally liable for the tax collected. He said given the fact that this is being done Statewide already the county could issue the aid of the State in identifying who these entities are and where they are located.

Mr. Lewza suggested postponing a decision for another month giving chance to see what the figures are on small business and hotels. He said he wanted to make sure the county would not be hurting them by doing this. If these companies stay in the county we want to make sure that they are offering a better economic atmosphere.

Ms. Raymond said there are still some unanswered questions particularly in not hurting or putting businesses out of business. She said if this is moved forward to a public hearing with

the caveat that we invite and encourage as much information as possible to come to all the members of the board and understand the issue better from all sides, plus the public input that would be received at the public hearing, this would put us in a much better position to be more comfortable with whatever action is taken. She said she would support scheduling a public hearing that will allow adequate time for anyone who wishes to speak.

**A motion was made by Ms. Raymond, seconded by Mr. Rowland to move forward to a Public Hearing, scheduled for August 15, 2012. Unanimous.**

Mr. Sausville said there was a resolution that was passed by the City of Saratoga Springs regarding the Last Call Hours. The resolution was received by Commissioner Franck on June 15<sup>th</sup> requesting that the county take a look at countywide last call hours. He said the City by itself cannot change the Last Call hours, it is something that has to be done countywide and requires approval from the State Liquor Authority.

Mr. Sausville said he sent a letter to Mayor Johnson requesting some additional information. He said the resolution did state that there was an adverse effect because of the on premises sale of alcoholic beverages.

Ms. Raymond said she is adamantly opposed to changing the Last Call Hours. She stated that she didn't think it was up to the Board of Supervisors to dictate to businesses how to operate their business with the time to open or close. Businesses that sell alcohol are absolutely regulated by the State Liquor Authority, which are some of the strictest regulations in the country for those kinds of businesses. We have a tourism industry in the county that we pride ourselves in. For the county to take what may be the last dollars of profit for private business could drive business out of business. She said she is sympathetic to the issues of public safety in Saratoga Springs, but it is not up to the Board of Supervisors of this county to change the hours of private businesses in order to address that problem. She said that it is up to the City of Saratoga Springs to look at its police scheduling, and for the individual bars and the City to work with the liquor authority, and if they have problems, correct them.

Mr. Richardson said he agreed that the hours of operation should be left up to the businesses.

Ms. Yepsen said small businesses make up 65% of the economic development in the county. Tourism is huge and Saratoga Springs is a destination location. She said Commissioner Franck is prepared to come before the committee and present three years of data that he has collected. Ms. Yepsen said because the SLA ruled the way they did and they are indicating that it has to go through the county, the City doesn't have the final decision with the county, it is the SLA. She said she would like to have the county ask the SLA to reconsider Saratoga Springs as a separate entity. Saratoga Springs is not asking the county to do anything other than to pass a resolution to support the needs of Saratoga Springs.

Mrs. Southworth said after reading the decision from the SLA it didn't appear that passing it through them to rule just for the City was an option. It seemed to read that it was a county

decision to affect every municipality in the county. From a small community that doesn't have bars open late, currently, but has restaurants that in the future may be open later, she would not want to see a restaurant close because a new owner would want to keep it open late. Those last few hours, especially for a business on the lake, can be some of the most profitable hours for that restaurant in the future with a new owner. She said she would not want to be telling someone from a tourist area, like the Adirondacks or Clifton Park where they are attracting more conventions that their bars are now going to have to close earlier.

Ms. Yepsen said she would like to have all the information given to the full Board of Supervisors before making a decision. We need to allow the information to come forward and to get all the numbers on the table so we know what we are talking about, she said.

Mr. Rowland said he has not heard anything other than what he has read in the paper in support of changing the hours. He said he has spoken to a few of the bar owners who are not in the city boundaries who have said that it doesn't really mean a whole lot to them because they will close when they don't have any customers, but if they have a room full of people, why should the county be telling them when to close. Mr. Rowland said he would be willing to listen to concepts, but he is not seeing overwhelming necessity to change it. Mr. Rowland said when you have a security issue; you bring in more security or make them more visible.

Mr. Lewza said the county should be doing everything they can to help private business and to make sure that taxes go lower. He said he is in full support of the comments made by Ms. Raymond, Mr. Rowland and Mr. Richardson. He said this should be left up to the business owner. It is not our duty to tell businesses what they should be doing.

**A motion was made by Ms. Raymond, seconded by Mr. Richardson to not support any changes to the last call hours.** Ms. Yepsen voted against the motion. Motion passed.

**On a motion made by Mr. Rowland, seconded by Mr. Richardson the meeting was adjourned.**

Respectfully submitted,  
Chris Sansom