



Committee on Public Safety

~AGENDA~

Monday, March 16, 2020

1:01 PM

Committee Chair: Colin Smith

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Meeting jointly with the Committee on Legislation

MINUTES APPROVAL

1. Monday, March 09, 2020 at 1:01 PM

I. ITEMS FOR DISCUSSION

1. **(ID # 12471) Local Law – LEGISLATORS MAHER, SHIMSKY, PARKER, CUNZIO, BARR, WALTER, BORGIA, BOYKIN, L. WILLIAMS, SMITH, COVILL AND TUBIOLO: Prohibiting Wild or Exotic Animal Performances:**

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County.

Joint with LEG.

Guest: County Attorney John Nonna

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT



Committee on Public Safety

~MINUTES~

Monday, March 9, 2020

1:01 PM

DRAFT

Committee Chair: Colin Smith

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Meeting jointly with the Committee on Legislation

Attendee Name	Title	Status	Arrived
Colin Smith	Chair	Present	
Nancy Barr	D6 Legislator	Present	
Margaret A Cunzio	D3 Legislator (Minority Leader)	Present	
Kitley Covill	D2 Legislator	Present	
Christopher Johnson	D16 Legislator (Majority Whip)	Present	
MaryJane Shimsky	D12 Legislator (Majority Leader)	Remote	
Benjamin Boykin	D5 Legislator (Chairman)	Present	

Others In Attendance: CEO: County Executive George Latimer, Steve Bass BOL: MaryJane Shimsky by phone, Catherine Borgia, Lyndon Williams, Alfreda Williams, Catherine Parker, Damon Maher, Vedat Gashi, Sarah Carbonaro, Tatyana Martinez, Lisa Hochman, Ralph Esposito, Jason Chervokas, Melanie Montalto, Carolyn Stevens GUESTS: Ernie Lungaro, Kiley Blackman

MINUTES APPROVAL

1. Monday, March 02, 2020 at 10:03 AM

On motion of Legislator Cunzio and seconded by Legislator Johnson the minutes were approved 6 - 0.

I. ITEMS FOR DISCUSSION

1. **(ID # 12471) Local Law – LEGISLATORS MAHER, SHIMSKY, PARKER, CUNZIO, BARR, WALTER, BORGIA, BOYKIN, L. WILLIAMS, SMITH, COVILL AND TUBIOLO: Prohibiting Wild or Exotic Animal Performances:**

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County.

Joint with LEG.

Guests: County Attorney John Nonna, Chief Deputy County Attorney Stacy Doglin-Kmetz, Ernest Lungaro - Director of Humane Law Enforcement, SPCA of Westchester

County Executive George Latimer advised that his executive order was a stop-gap measure to take immediate action until the Board could act to pass a law. He will accept whatever

modifications the Board makes to the policy. County Attorney John Nonna discussed the item with the Committee. Ms. Dolgin-Kmetz addressed various exemptions in the law. Legislator Parker asked why there were exotic animals at the Hanneford Circus this year, since there were none in 2018 and 2019. Chairman Boykin said that he was advised by the County Executive that this was due to an oversight, and should not have happened. Ernest Lungaro, Director of Humane Law Enforcement, SPCA of Westchester, stated that SPCA supports the ban. He said that the confinement and harsh training leading up to performance is harmful to the animals. Legislator Cunzio noted that the animals' life spans are also shortened, and that there is a liability risk for the County if an animal escapes or attacks someone. Legislator Covill asked how we came up with the fines. Ms. Dolgin-Kmetz stated that penalties have to be reasonable in light of the violation. Legislator Maher suggested imposing a penalty of \$10,000 per day for the first violation, \$25,000 for a second violation, and adding a provision that the County Attorney may alternatively or additionally seek an injunction. Mr. Nonna said the language would have to be clear as to when the \$25,000 begins. Legislator Maher also suggested amending the definition of wild animals rather to include general information as well as a list of specific animals.

Chair Smith agreed with the Committee on Legislation to hold this item for further discussion. No action was taken.

RESULT: PENDING

2. RES-2020-33 Resolution – PH - Prohibiting Wild or Exotic Animal Performances:

A Public Hearing on "A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County." Public Hearing set for March 23, 2020 at 7:30 p.m.]. LOCAL LAW INTRO 12471-2020.

Joint with LEG.

Guests: County Attorney John Nonna, Chief Deputy County Attorney Stacy Dolgin-Kmetz, Ernest Lungaro - Director of Humane Law Enforcement, SPCA of Westchester

Please refer to item #1.

With a motion by Legislator Cunzio and seconded by Legislator Covill the item was approved with a vote of 6-0.

RESULT: SIGNED BY COMMITTEE

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Cunzio and seconded by Legislator Johnson the Committee adjourned at 2:04 PM.

Minutes Acceptance: Minutes of Mar 9, 2020 1:01 PM (MINUTES APPROVAL)

Damon R. Maher

Legislator, 10th District
Chair, Labor & Housing



Committee Assignments
Budget & Appropriations
Intergovernmental Services
Parks, Planning & Economic Development
Public Safety
Seniors & Constituencies

To: Ben Boykin, Chairman of the Board of Legislators
Sunday Vanderberg, Clerk of the Board of Legislators

FROM: Damon Maher, Legislator, 10th District

MaryJane Shimsky, Legislator, 12th District
Catherine Parker, Legislator, 7th District
Margaret Cunzio, Legislator, 3rd District
Nancy Barr, Legislator, 6th District
Ruth Walter, Legislator, 15th District
Catherine Borgia, Legislator, 9th District
Ben Boykin, Legislator, 5th District
Lyndon Williams, Legislator, 13th District
Colin Smith, Legislator, 1st District
Kitley Covill, Legislator, 2nd District

Date: February 24, 2020

RE: Prohibiting Wild or Exotic Animal Performances

Please refer the attached Local Law, adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County, to the appropriate committees on February 24, 2020 Westchester County Board of Legislators agenda.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County.”

Your Committee finds that the use of wild and exotic animals in circuses are detrimental to animal welfare due to the adverse effects of frequent transport, extended periods of confinement and physically abusive training techniques. The extended period of time in vehicles and temporary facilities utilized by the circus industry restrict natural behaviors and cause animals to suffer and be prone to health, behavioral and psychological problems. Tricks that exotic and wild animals are forced to perform require extreme physical coercion techniques, including the restriction of food, the use of bullhooks (a heavy bar with a sharpened point and hook), electric shocks, metal bars, whips, and other forms of physical abuse.

The conditions in circuses, including constant travel, limited facilities, long periods of restricted movement, separation from natural groupings, stress, and physical coercion inevitably compromise the welfare of animals, which can lead to abnormal behavior, attempts to escape and increased risks to public safety. Wild and exotic animals may also carry serious transmittable diseases and infections, including tuberculosis. Current local, state, and federal law does not adequately protect circus animals from cruelty or protect the public from the dangers posed by these animals. The towns of Greenburgh and Southampton, in New York have already enacted local laws to ban the use of wild and exotic animals in circuses and many other states and municipalities in the U.S. and around the globe have done the same.

Your Committee finds that restricting the use of exotic and wild animals in traveling circuses and shows is the most cost-effective and efficient way to safeguard both animal welfare and public

safety. Bringing the public into close proximity with these animals creates an unnecessary hazard to members of the public, as well as operators and performers in these shows. Adoption of this Local law will minimize hazards to the physical health of the public and promote the protection of animals by prohibiting the participation of an exotic or wild animal in a performance or display that is part of a circus held in the County.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law _____ . Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: _____, 2020
White Plains, New York

COMMITTEE ON

Sdk-2/20/2020

Attachment: LL - Prohibiting Wild or Exotic Animal Performances - DRAFT (12471 : Prohibiting Wild or Exotic Animal Performances)

RESOLUTION NO. ____ – 2020

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2020, entitled “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County.” The public hearing will be held at __.m. on the ____ day of _____, 2020 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

LOCAL LAW INTRO. NO. -2020

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 682 prohibiting certain performances and displays of wild or exotic animals within Westchester County.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 682 is hereby added to the Laws of Westchester County to read as follows:

CHAPTER 682**CERTAIN PERFORMANCES AND DISPLAYS OF
WILD OR EXOTIC ANIMALS PROHIBITED****§ 682.01. Findings and Legislative Intent****§ 682.02. Definitions****§ 682.03. Prohibited Acts****§ 682.04. Exemptions****§ 682.05. Enforcement****§ 682.06. Penalties****§ 682.07. Severability****§ 682.01. Findings and Legislative Intent.**

The County finds that the use of wild and exotic animals in circuses are detrimental to animal welfare due to the adverse effects of frequent transport, extended periods of confinement and physically abusive training and is dangerous to public health and safety. Severe confinement, lack of free exercise and the restriction of natural behaviors, cause animals used in traveling circuses and shows to be prone to health, behavioral and psychological problems. Welfare of animals subject to the conditions in traveling circuses and shows, such as constant travel, limited facilities, long periods of restricted movement, stress, and physical coercion, will inevitably be compromised, which can lead to increased risks to public safety. Animals in traveling circuses and shows pose an additional risk to public safety because such animals have wild instincts and needs and have demonstrated unpredictability. The animals may live in substandard conditions completely alien to their natural habitats, with poor diet, inadequate exercise and generally substandard living conditions. This Chapter

will minimize hazards to the physical health of the public and promote the protection of animals by prohibiting the participation of an exotic or wild animal in a performance or display that is part of a circus held in the County.

§ 682.02. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

1. CAUSE A PERFORMANCE OR DISPLAY - The term “cause a performance or display” means to be financially or operationally responsible for the management of a performance or display, or to officially or financially sponsor a performance or display.
2. CIRCUS - The term “circus” means any live show, carnival, traveling or trade show which features performances or displays of live wild or exotic animals that, in order to be able to perform, have traveled in mobile housing facilities or were taken from their permanent residence and required to travel for any distance. “Circus” shall not include any trade show where the sole purpose of the show is to allow vendors and attendees to enter into commercial transactions for the sale of animals, such as livestock auctions.
3. PERFORMANCE OR DISPLAY - The term “performance or display” means any exhibition, act, public show, photographic opportunity, carnival, ride, parade, race, performance or similar undertaking in which animals perform tricks, fight or participate in performances for the amusement or entertainment of an audience.
4. PERSON - An individual, partnership, corporation, joint venture, association, trust, estate or any other legal entity and any officer, member, shareholder, director, employee, agent or representative of these.
5. WILD OR EXOTIC ANIMAL - The term “wild or exotic animal” means any animal, including the following hybridized with domestic species including but not limited to:
 1. Artiodactyla (including hippopotamuses and giraffes);
 2. Canidae (including wolves, foxes and jackels);
 3. Cetacea (including whales and dolphins);
 4. Crocodylia (including alligators and crocodiles);
 5. Elephantidae (elephants);
 6. Felidae (including tigers, lions, jaguars and leopards);
 7. Hyaenidae (hyenas);

8. Kangaroos;

9. Non-human primates (including apes, monkeys and lemurs);

10. Perissodactyla (including rhinoceroses, tapirs and zebras);

11. Pinnipedia (including seals, sea lions and walruses);

12. Struthio (ostriches); and

13. Ursidae (bears)

For the purposes of this Chapter, “wild or exotic animal” shall not include any “companion animal” or “pet” as defined in Section 350 of the N.Y. Agriculture and Markets Law, nor shall it include horses or reptiles.

§682.03 Prohibited Acts.

It shall be unlawful for any person to cause a performance or display of any wild or exotic animal that is part of a circus in the County of Westchester.

§ 682.04. Exemptions.

The following are exempt from this chapter:

1. A performance or display of wild or exotic animals at a nonmobile facility to impart knowledge or information about the exhibited animal’s behavior, habitat, life cycle, migratory patterns, feeding habits, or similar pedagogical information, for educational or therapeutic purposes, where such performance or display is conducted by, or affiliated with, a nonmobile, permanent institution or facility under the sponsorship of institutions accredited by the American Zoological Association or the Association of Sanctuaries.

2. Wild or exotic animals in the possession of a Wildlife Sanctuary that is:

A. a nonprofit organization qualified under §501(c)(3) of the Internal Revenue Code;

B. operates a place of refuge for abused, neglected, impounded, abandoned, orphaned, or displaced wildlife; and

C. does not conduct commercial activity with respect to any animal of which the organization is an owner.

§ 682.05 Enforcement.

The Department of Public Safety or any other municipal law enforcement agency may enforce the provisions of this Chapter.

§ 682.06. Penalties

A. A violation of § 682.03 is punishable by a fine not exceeding \$1,000. Each day the violation is committed constitutes a separate offense.

B. A second and subsequent violation of § 682.03 by a person is punishable by a fine of not more than \$2,500. Each day the violation is committed constitutes a separate offense.

§ 682.07. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application to any person or circumstance be adjudged by any court of competent jurisdiction invalid or unconstitutional, that order or judgment will not affect, impair or invalidate the remainder thereof but will be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this chapter, or its application to the person or circumstance directly involved in the controversy in which that order or judgment is rendered.

§ 2. This local law shall take effect immediately.