

INNOVATIONS IN LOCAL GOVERNMENT

**An Overview of How Downsized Town Boards Will Function,
Increase Citizen Participation and
Strengthen Community throughout Western New York**

**Kevin Gaughan
September 16, 2009**

INTRODUCTION

In 2006, in collaboration with SUNY at Buffalo Law School and in response to Western New York's chronic economic decline, and under the auspices of several local foundations, I conducted a study on local government.

I then set out to encourage reform based on the study's finding that Erie County's 439 elected officials is 10 times more the number of politicians in any like-sized community in America. Taxpayer cost of sustaining these 439 politicians exceeds \$32 million per year. In the last decade, then, during which our community lost tens of thousands in population and jobs, and more than 30% of young people between the ages of 18 and 34, we paid our public servants \$320,000,000 – more than ¼ of a billion dollars.

In support of my proposal that each town government eliminate 2 elected positions, and all village governments merge into their surrounding town, I visited our 25 towns and 16 villages, spent several weeks in each municipal building, spoke with local officials, and listened to residents.

Perhaps most important, since 2006 I've attended more than 250 town and village board meetings, both in and outside of New York State. This experience has afforded me insight into local governance procedure and practice, and time to devise ideas by which we can breathe new life into what most citizens consider a moribund system.

Based on what I saw, heard, and learned these past four years, I respectfully propose several changes in town governance practice and procedure.

I offer these ideas as citizens continue to avail themselves of a law that lets people, not politicians, decide if they want to reduce government and save taxes. Beginning with West Seneca and Evans (where downsizing passed overwhelmingly), through Orchard Park, Alden, and Hamburg (where voters will decide in the coming weeks), to the remaining towns and villages we shall move onto next year, every Western New Yorker will have a chance to have their say.

These proposed reforms are intended to show how a) downsized boards will function; b) reducing the number of politicians increases citizens' voice; and c) reinvigorated local governance can set us on a path toward more functional, inclusive and sustainable community.

Kevin Gaughan

I. PROCESS REFORM

A. Meeting Room

Re-design meeting structure and format to return the “town board meeting” to its original notion of being a “town meeting.” That is, place the emphasis on people, not politicians.

This can be accomplished by taking the 3 board members down from their raised, distant platform, and place them, along with all other town elected officials (town clerk, highway superintendent, tax collector, and any assessors) at desks directly in front of and surrounded by citizens.¹ This will reduce residents’ sense that they’re attending a lecture, and make them feel that they’re part of a conversation.²

B. Meeting Agendas

I have formed a committee of local elected officials who have agreed to examine ways to reduce extraneous agenda items in order to re-focus board meetings on its principal purposes: adoption of budgets and setting overall policy.

C. Citizen Comment

Once town meeting agendas are pared down to appropriate size and scope, the time saved can be devoted to increased citizen questions, comments and ideas. Citizens should be permitted to speak contemporaneous with individual matters before the board. This will substantially reduce residents’ anger at being consigned to speak either long before or long after a board considers and votes on a matter.

II. SUBSTANTIVE REFORM

A. Return Boards to Original Function and Utilize Available Resources to Share Workload

A town board is the public sector equivalent of a private company’s board of directors: a body which exists solely to adopt budgets and set overall policy. Town department heads – police chief, budget director. planning director,

¹ The origin of the raised platform dates from 1926, when the then 3-member town boards (supervisor and two council members) were enlarged to five members by adding the town’s two justices to the board. That’s why most town boards meet in the municipality’s courtroom. This practice ended in 1976 when it was realized that having one individual discharge both judicial and legislative duties (as both town councilmember and justice) violated the U.S. Constitution. Boards then returned, albeit briefly, to their original three—member size.

²The design of future town meeting rooms should equip citizen seats with fall-away desktops so attendees can take notes and use laptop computers during a meeting.

highway superintendent – are analogous to private company officers, i.e., president, comptroller, budget director, who are charged with overseeing day-to-day operation.

As population and public funds dwindled in Western New York over the years, politicians' duties decreased accordingly. Faced with having to justify their position, officials began expanding their activities into functions that require neither their time nor their attention. As a result, board meetings are largely taken up with formal motions and lengthy discussions on matters such as community garden walks, purchasing equipment, the price of asphalt, where to hold a senior prom or fireworks display and, roll call votes on whether to pay the bills.

B. Assign Certain Tasks Now Performed by Board Members to Other Town Elected Officials and Department Heads

Orchard Park has, for example, 10 elected officials, not just 5 council members. In addition, it has 8 department heads. Under present practices, unless and until they are asked to speak, they are virtually silent non-participants in town board meetings. They can and should carry more responsibilities, and have more direct conversation with citizens at town meetings.

C. Citizen Committees

Perhaps the most unsettling experience I've had in attending town board meetings is the consistent denial of resident's offers to participate in town business. Over and over, I witnessed residents rising to offer time, energy, and skills on a voluntary basis, in exchange only for having more influence and input in policy and practice. And in virtually every instance, they were politely ignored.

Lincoln, Massachusetts has 14 citizen committees overseeing finance, planning, aging, capital planning, health, recreation, preservation, trust funds, personnel, cemetery, land conversation, among other policies. "Volunteer citizen committees run the town," a Lincoln town board member told me in a telephone interview.

D. College Students as Ex Officio Town Board Members

Based on the present New York Education law that permits school boards to have an ex officio, non-voting student member, I propose that town boards add a local college student to their ranks. Kindly see letter to Donald Ogilvie, Superintendent of Erie 1 BOCES, dated September 10, 2009 attached hereto as Exhibit A.

E. Local Government Participation as Prerequisite to Public High School Graduation

To give students' participation in local matters more depth and meaning, inject youth and vigor into public assembly spaces, and provide additional support for constituent services, I propose a formal program of local government service as a prerequisite to graduation from public high schools in Erie County. Kindly see letter to Donald Ogilvie dated September 10, 2009 attached hereto as Exhibit A.

QUESTIONS AND ANSWERS

Why should we downsize local government?

Because since 1976, Western New York has lost 252,000 people. Since 1990, 53,000 private sector jobs have disappeared. We've lost 30% of young people between the ages of 18 and 34; unemployment stands at approximately 10%, its highest level since the mid-1970's; we pay the fifth highest local property taxes in America; we endure stunningly high birth defect rates, startlingly low literacy rates, and breathe the most toxic air in New York State; and we are listed among the 10 fastest dying communities in America. In short, because whatever it is we're doing, it's not working.

And all this was true long before our national economy, in its worst recession since the Great Depression, reset itself. Now, every American community must determine how it will prosper in a new economic system. How will we improve our "community metabolism" – the speed at which we transform an idea to a product? How will we "talent cluster" – produce, attract, and retain the educated, high-skilled labor force that will drive this new economy? How can Western New York not just survive, but thrive?

How will a 3-member town board function?

The short answer is: just like the hundreds of 3-member boards that exist throughout America. My research found that 3-member town boards exist in communities that have substantially lower taxes and enjoy dramatically higher growth rates than Western New York. The more interesting answer is: any way we citizens want it to.

Municipality	Population	Number of Board Members
Old Lyme, CT	8,100	3
Swampscott, MA	14,412	3
San Diego County, CA	3.1 million	5

Massachusetts

Number of towns	298
Number of towns with 3 board members	159

Connecticut

Number of towns	169
Number of towns with 3-member board	59

How can 3-member boards operate under New York State's Open Meetings Law?

By obeying it. Citizens are well aware that the most serious ailment afflicting government on every level is lack of transparency, as closed-door decision-making excludes citizens. Anyone who's attended a town meeting has felt frustration when politicians emerge from behind closed doors to unanimously approve a measure. From Albany to Alden, the Opens Meeting law in New York is most honored in its breach. And my experience has shown that its most excessive violations occur in local government.

Downsizing town government strengthens the Opens Meetings Law. With a 3-member board, anytime 2 members gather or speak, the law applies. Thus, they can discuss their children, the Buffalo Bills, or the latest Hollywood film. But they cannot discuss the public's business without the public present. That is a good thing.

Interviewing Sarah Holden, chair of a 3-member town board in Lincoln, Massachusetts, I asked if their open meetings law (an exact replica of ours) disrupts the board's conduct of business. Her reply was a simple "no." She

added, “Our experience is that it’s better to have every discussion out in the open and in front of everyone. It makes residents less cynical and more confident in their town.”

Will downsizing reduce people’s representation?

No. It will increase their voice (see Citizen Committees below).

Speaking with hundreds of Western New Yorkers for this project, less than 5% of them said that they feel represented by local government. They feel managed, not represented. This sentiment is reflected in dismal attendance at town meetings, where the average headcount of residents is 18.³ We’ve given up attending town meetings, and for good reason. The wall of politicians we encounter there serves not to invite people’s views, but to obstruct them.

Compared with most regions around America, Western New York is hip-deep in politicians. Over the years, as we lost people and capital, we added elected positions in a compassionate effort to create jobs. We can no longer afford a system that both costs too much and impairs civic-minded citizens’ efforts to engage in their community.

For example, the Town of Orchard Park, with some 27,000 residents, has 10 elected officials who cost taxpayers \$515,000 per year, or \$5.5 million dollars per decade. If Erie County had the same ratio of citizens to legislators as Orchard Park, there’d have to be 159 Erie County legislators. (If you add Orchard Park village elected officials, the number of elected officials in Orchard Park rises to 16.)

In truth, in a community with one of the highest concentrations of politicians in America, “representation” is nothing more than a code word for political turf protection. Elected officials’ reticence to share responsibilities derives from their desire to rationalize and defend their existence. With a 3-member board, their ability to refuse outside assistance is, by necessity, diminished.

Exhibit A is below

³ Based on counting citizen attendees at 252 local government meetings that I attended from January 2006 through September 2009.

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September 10, 2009

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Dear Don:

Further to our telephone conversation of last week – and to our years-long cooperation in reform efforts – this letter sets forth certain proposals that I'm making in connection with my effort to downsize government in Western New York.

In 2006, in collaboration with SUNY at Buffalo Law School, I conducted a study on local government. I then set out to encourage reform based on the study's finding that Erie County has 439 elected officials, more than 10 times the number of politicians than any like-sized community in America. I visited each of our 25 towns, 16 villages, and 3 cities, spent several weeks in the government center of each municipality, spoke with local officials, and listened to residents.

Perhaps most important, during the past 3 years I've attended more than 250 town and village board meetings. This experience has afforded me both insight into local governance procedure and practice, and time to devise ideas by which we can breathe new life into what most citizens consider a moribund system.

Two of my proposals relate to high school and college students, and the benefit to both them and our community born of increasing young people's participation in local government.

Town Hall Service as a Prerequisite for Graduation

In the spirit of sacrifice that has informed our nation's finest moments – a spirit once in abundance but now perhaps less so – I propose that a condition to

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graduation from public high schools in Erie County's 26 suburban school districts be service at the local town hall.

I base this proposal on the present practice of students attending a single board meeting to fulfill an academic requirement. Speaking with many of these students over the years convinced me that expanding this requirement would benefit both them and the practice of government.

Requiring high school students to render a to-be-determined number of hours of service at their town hall would strengthen their understanding of the relationship between governance and community, deepen their ties to Western New York, and provide considerable manpower to the range of constituent services provided at local municipal buildings.

Of equal importance, the consistent presence of young, curious minds will pump life into what once was, and what should once again be, the heart of local life: town hall. To our old and tired system, students would bring energy and youth.

College Students as Ex Officio Members of Town Board

I propose as well that New York State Town Law be amended to include a mirror provision to NYS Education Law Section 1804.12, to provide for college student ex officio members of local town boards. (A copy of Education Law 1804.12 is attached hereto)

As you know, school boards across New York benefit greatly from the innovative practice of having high school students serve as non-voting members. By all accounts, school governance has improved as a result of these students' insights based on their experience. It is time to devise a comparable program for local government.

I propose that every town board be permitted to have one college student, non-voting member, to be elected or appointed at the discretion of each town. To be eligible, a student must be a resident of the town, enrolled in a local higher education institution, and between the ages of 18 and 25.

The principal purpose of my efforts to downsize local government is to both reduce costs and increase citizen voice. We will accomplish this goal only by creating a system more amenable and open to outside ideas. And having Western New York's greatest asset, its youth, more formally and broadly engaged in local service, is an important step.

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I look forward to speaking with you further concerning this matter, and would be most grateful for your comments and additional thoughts on reinvigorating local governance throughout our community.

Very truly yours,

Kevin P. Gaughan

Enclosure

Kevin Gaughan

**STATE OF NEW YORK
EDUCATION LAW SECTION 1804.12**

As a model for reform of NYS Town Law

12. Each central school district, at the next annual meeting subsequent to the effective date of the chapter of the laws of two thousand five which amended this subdivision, may submit to the qualified voters of the district for approval, the issue of ex officio student membership on the school district's board of education, by a student attending a high school within such school district. Upon voter approval, each such district shall establish a process for student membership selection pursuant to paragraph c of this subdivision. If, prior to August fifth, two thousand three, a school district had a policy that allowed a student or students to be ex officio members of the school board, such policy shall be deemed to meet the requirements of this subdivision and shall be deemed to have full legal effect. In any district that contains more than one high school, such process shall take into consideration the number of high schools within the district and provide for a mechanism which allows for fair representation among the schools. Such school district shall allow such selected student to

serve as an ex officio member of such district's board of education, and, if so, provided further that:

a. The ex officio student member of the board shall be entitled to sit with board members at all public meetings of the board and participate in all board hearings and meetings.

b. The ex officio student member of the board shall not be allowed to vote, shall not be allowed to attend executive session, and shall not be entitled to receive compensation of any form for participating at board meetings.

c. Notwithstanding any other law to the contrary, the ex officio student member of the board may be any of the following: the student that has been duly elected as student president of the high school; a student duly elected by the student body; a student selected by the high school student government; a student selected by the high school principal; a student selected by the superintendent of schools; a student selected by majority vote of the school board. Provided, however, in districts having district-wide student governments or advisory committees, the student ex officio member shall be selected by the superintendent of schools from among the members of such district-wide student governments or advisory committees, subject to ratification by majority vote of the school board.

d. The ex officio student member shall be a senior at the high school and shall have attended such high school for at least two years prior to selection.

12-a. Each central school district may offer to the voters once every two years, on the same date as the annual school district budget vote, a separate referendum to decide whether the school district shall allow a student, as established under this section, to serve on the school board as an ex officio, non-voting member.