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Should We Revive the Old Board of Supervisors?

Free Buffalo asks for comment on ideas to revise the county charter

By James Ostrowski

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Free Buffalo's charter revision committee has discussed many proposals to reform and restructure county government. Some of the ideas were discussed at a public forum in February.

While our group has not yet formally endorsed these ideas, we thought it wise to publish these proposals in the interest of generating fruitful discussions in the community.

A Modified Board of Supervisors with a Professional Manager

At our forum, Sam Iraci, former Buffalo Deputy Mayor and former Elmira City Manager, impressed the audience with his call for a council/manager form of government for Erie County.¹ While this concept has also been discussed by the County Charter Review Commission, their proposal would retain the County Executive post. There is

¹ http://wnymedia.net/video/irazio_300k.wmv

little support in Free Buffalo for that hybrid solution which seems to involve a pointless duplication of personnel and the prospect for chain of command problems.

Also discussed at the forum was the possibility of restoring the old board of supervisor system. It's fair to say that simply going back to the old board of supervisors system is unthinkable. That would require the election of 27 supervisors in the city of Buffalo. However, the present trend of thought in this area is to reduce, not increase the number of legislators.

Because of the one-man-one vote court cases, a board of supervisors system would require weighted voting. With modern technology, this is not an insurmountable obstacle. It even has the advantage of making it harder to count votes and engage in [logrolling](#) and might even lead to people voting on the merits as opposed to for strategic reasons.

The main problem with the board of supervisors was that it had no separate executive branch. Rather, the work of administration was done by committees. One can see that by dividing responsibility too broadly among 54 supervisors, there would be a tendency toward bureaucratic delay and confusion.

That is the reason why a county executive was installed in 1961. Simply going back to the old board of supervisors system is unthinkable. However, there is a plausible scenario for a modern board of supervisors system that just might work.

Start with the town supervisors and mayors of the two smaller cities—Tonawanda and Lackawanna. Now, with Buffalo, instead of electing supervisors, simply allow the existing council members to serve. That would make a body of 36 people, not inordinately large. None would be separately elected and would merely add their county duties onto their existing town or city duties. Then however, instead of the old cumbersome process of administering the county themselves with numerous committees, the board could appoint a professional manager.

Here, you combine the advantages of the manager form—expertise and apolitical administration--with a system that requires no independently elected or separately paid officials. Also, you have a strong element of local control as the policymakers of the county are also running towns and municipalities. This is a proposal that is at least worth considering.

This system would require weighted voting and a question arose as to its constitutionality. A [Second Circuit case](#) from 1996 holds that weighted voting is allowable unless one town has a majority of the votes. The largest town, Amherst has only 12% of the county's population.²

² "When a departure from voting on a strict population basis is necessary, the use of a system that weights the votes of the elected representatives may provide the voters of a given district with a degree of representation on the governing body that is proportionate

Here's how it would work. Each town supervisor would be a member of the county board of supervisors along with the mayors of Lackawanna and the City of Tonawanda. In Buffalo, each of the nine councilmen would be members. Each vote would be weighted according to population but each member would be otherwise free to participate on an equal basis. Many small towns which have been shut out of the Erie County legislature for years would once again have a voice and a seat at the table.

to the percentage that the district's population bears to the population of the political unit as a whole. In *League of Women Voters*, we rejected a contention that weighted voting was per se unconstitutional. . . . In *League of Women Voters*, we followed the precedent set by *Franklin* and ruled that computerized *weighted voting in a local legislative body with general governmental powers was not unconstitutional per se*.

"Further, it is undisputed that no one town has a majority of the county's population. Thus, although the representatives from the three largest towns could combine to effect passage of legislation by a simple majority, consistent with the aggregate population of their districts, no one representative controls a majority of the Board's weighted votes. Delaware County's apportionment plan therefore reproduces the relative voting power that would be achieved either by increasing the number of representatives per district in proportion to the population or by redrawing boundaries so that each district comprised a population of roughly equal size.

"Finally, there is nothing in the record to indicate that Delaware County's weighted-voting system provides representation that is not qualitatively fair and effective. The Board's small size allows for the efficient conduct of county business and a greater degree of flexibility than would a Board of substantially greater size. *By having each town elect a representative, the County assures that the interests of every town, no matter how small, are considered by the Board, and that no town suffers from permanent lack of representation on account of its size. In this way, the County's method of local governance preserves not only traditional boundaries and local allegiances, but assures that no voter is effectively disenfranchised by reason of place of residence.*"

Modified Board of Supervisors

<i>Town, City</i>	<i>Weighted votes</i>	<i>Current Incumbent</i>
1. Alden (town)	0.39	Michael Cole (R)
2. Amherst (town)	4.41	Satish Mohan (R)
3. Aurora (town)	0.53	Terence M. Yarnall (R)
4. Boston (town)	0.30	William A. Eagan (D)
5. Brant (town)	0.07	Samuel J. Chiavetta (R)
6. Delaware (Buffalo)	1.23	Michael LoCurto (D)
7. Ellicott (Buffalo)	1.23	Brian Davis (D)
8. Fillmore (Buffalo)	1.23	David A. Franczyk (D)
9. Lovejoy (Buffalo)	1.23	Richard A. Fontana (D)
10. Masten (Buffalo)	1.23	Antoine M. Thompson (D)
11. Niagara (Buffalo)	1.23	Dominic J. Bonifacio (D)
12. North (Buffalo)	1.23	Joseph Golombek, Jr. (D)
13. South (Buffalo)	1.23	Michael Kearns (D)
14. University (Buffalo)	1.23	Bonnie E. Russell (D)
15. Cheektowaga (town)	3.56	Dennis H. Gabryszak (D)
16. Clarence (town)	0.98	Kathleen Hallock (R)
17. Colden (town)	0.13	Charles T. Nuttle (R)
18. Collins (town)	0.31	Kenneth E. Martin (R)
19. Concord (town)	0.32	Gary Eppolito (R)
20. Eden (town)	0.30	Glenn R. Nellis (D)
21. Elma (town)	0.43	Michael P. Nolan (R)
22. Evans (town)	0.67	Robert R. Catalino, II (D)
23. Grand Island (town)	0.70	Peter A. McMahon (D)
24. Hamburg (town)	2.13	Steven J. Walters (R)
25. Holland (town)	0.14	Michael Kasprzyk (R)
26. Lackawanna (city)	0.72	Norman L. Polanski (D)
27. Lancaster (town)	1.48	Robert H. Giza (D)
28. Marilla (town)	0.22	John R. Foss (D)
29. Newstead (town)	0.32	David L. Cummings (R)
30. North Collins (town)	0.13	Robert R. Catalino, II (D)
31. Orchard Park (town)	1.04	Mary Travers Murphy (D)
32. Sardinia (town)	0.10	Kathleen Balus (R-Ind.)
33. Tonawanda (town)	2.96	Ronald H. Moline (R)
34. Tonawanda (city)	0.61	Ronald Pilozzi (R)
35. Wales (town)	0.11	Rickey Venditti (R)
36. West Seneca (town)	1.74	Paul T. Clark (D)

Banning Corporate Welfare

This proposal would prohibit the county from engaging in what is colloquially-known as “corporate welfare.” Basically, that means that grants to private business for the purpose of economic development would be prohibited. Also banned would be special tax breaks for economic development purposes. If the county wishes to promote economic development, it should slash taxes and reduce burdensome regulations *across the board and for all citizens and all businesses equally*. The county would also be barred from engaging in any joint venture with any other government entity if corporate welfare is involved in the deal. This would prevent the county from doing indirectly what the charter would prohibit it from doing directly.

Equalizing Public and Private Sector Salaries

This proposal would require that public employee compensation be made commensurate with what private sector workers earn. Over the years, compensation in the public sector has far surpassed what is on average available in the private sector.³ This is unfair, unnecessary, a drain on the economy and a major cause of our region’s high taxes.

Recall, Term Limits and Petition

There is a strong consensus in our group that the people need mechanisms to take power back when it is being abused. Many of the mechanisms for doing so that are commonplace in other states are absent here such as term limits, recalling public officials, and the right to place propositions on the ballot. These rights should be included in any revised county charter.

An Appointed Clerk

There is a belief among some that the position of County Clerk should be appointed, not elected, since it is an administrative, not a policymaking position. This is not a reflection of the performance of the incumbent, David Swarts, who many believe has done a fine job in that position.

Making Records Public

Records of legislative meetings should be posted online within seven days. These records should include all motions put before the legislature and all minutes from committee meetings as well as a record of all votes each legislator has cast both in committee and on the floor.⁴

³ <http://www.freebuffalo.org/articles/policyreports/freebuffalopolicyreportno2.pdf>

⁴ Proposed by “Chris in Parkside” on Speakupwny.com.

Legislative Meetings

There is a strong feeling that legislative meetings should be held at night. Some also believe those meetings should be held in various places around the county and that some portion of each meeting should be given over to the public for comments and questions. Also, the citizens who do attend often have little idea what the agenda is about. Perhaps a plain language exploration of each item should be required.

Budget

“The Charter should be amended to require the annual budget be adopted prior to October 31 of each year. This will allow the voters to properly assess their elected leaders’ performance so that they may cast their vote. On several occasions in this county’s history the voters were told various things regarding the budget and their taxes just to learn after Election Day that it was not as represented. This needs to be changed.”⁵

Charter Revision Commission

“The Charter should be amended to provide that every 10 years the following question shall be presented to the voters of the county. “Should a Charter Review Commission be convened for the purposes of reviewing the provisions of the County Charter?” If a majority of voters vote in favor of this question a Charter Review Commission shall be empanelled by a specified method. The people should not have to wait for the very people they seek to change ask to be reviewed.”⁶

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These are some of the more important proposals being considered by Free Buffalo and its Charter Revision Committee and by others who have contributed their comments on various internet forums such as [Speakupwny.com](http://www.speakupwny.com).

Free Buffalo will continue to study these possibilities and will closely monitor the entire charter revision process as it progresses in the coming months.

⁵ Proposed by Daniel T. Warren, “Reforming Erie County Government,” Mar 20, 2006, http://www.speakupwny.com/article_2585.shtml

⁶ *Id.*