

Annual Report of the Broome County Legislature and Office of the Clerk of the Legislature for the year 2009

LEGISLATIVE BRANCH

The Broome County Legislature and the Office of the Clerk of the Legislature comprise the legislative branch of government of the County of Broome, New York. Following the form of government set forth in the Constitution of the United States, the Constitution of the State of New York, and the Broome County Charter the annual budget, contracts, agreements, leases, the acquisition or sale of county property and other assets, and other matters require approval by the Legislature in order for the County Executive and the County's department heads and employees to execute them.

Broome County is divided into nineteen legislative districts and one legislator is elected by the voters of each district to serve a two-year term. Subsequently, the Clerk of the Legislature and the Legislative Assistant are appointed by the Legislature. The Clerk of the Legislature appoints the remaining staff in the office.

PERSONNEL

In 2009, the staff of the Legislature consisted of the following. ** ***

Clerk of the Legislature	Eric S. Denk *
Deputy Clerk of the Legislature	Carol L. Hall
Second Deputy Clerk of the Legislature	Joanna M. Kamin
Third Deputy Clerk of the Legislature	Jennifer K. Royer *
Legislative Assistant	Christopher H. Marion #
Legislative Aide	Michael J. Hanbury ##

Legislative Assistant Chris Marion was mobilized with the New York Army National Guard from January 2008 through January 2009. Mr. Marion, who is a Lieutenant in the National Guard, commanded a platoon for nine months in Afghanistan, primarily in and around Kabul, as a part of Operation Enduring Freedom of the War on Terror. As a result, the Legislature temporarily authorized the creation and funding of the position of Legislative Aide.

The position of Legislative Aide ended in February of 2009. Mike Hanbury was an outstanding employee and will be missed.

* Notary Public, State of New York

** For a complete list of Members of the Legislature, please see Appendix A

***The County Comptroller, who is also appointed by the Legislature submits a separate annual report.

LEGISLATION

In order for an item to be considered by the Legislature, a Request for Legislative Approval (Request) must be submitted to the Office of the Clerk of the Legislature along with appropriate accompanying documentation to enable staff to draft a resolution, ordinance, or local law for consideration.

Upon receipt of a Request, a log is created to track the item from the time it is received through the drafting and distribution to legislators of the final draft, to the assignment to committee, to the assignment to the floor of the Legislature, to its final disposition: adoption and enactment, adoption and veto, or defeat.

The Office of the Clerk of the Legislature reviews the request and accompanying documentation in order to produce a draft resolution. This review may include a search of indexes, files, or Journals of Proceedings for past related resolutions and/or contacting the originating department for additional information or clarification. The Clerk and staff use the information gathered to draft the resolutions. Drafted resolutions are sent to the Department of Law for review by counsel.

Once the resolutions are prepared in their final form, including committee assignments, the staff produces committee meeting agendas.

The completed package of resolutions and committee agendas is then reproduced and distributed to legislators and all appropriate department heads in preparation for the committee meetings.

The legislative staff processed a total of **694** resolutions in 2009. A five-year history of the resolutions follows:

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Legislative Staff	688	674	752	710	611
Law Department	35	30	18	8	15
Budget Office	27	50	56	52	68
Total	750	754	826	770	694

LEGISLATIVE/COMMITTEE MEETINGS

The above mentioned resolutions are prepared for review and action through the committee system before they are acted upon by the full Legislature. A five-year history of committee meetings and legislative sessions follows:

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Regular Committee Meetings	119	118	107	107	117
Special Committee Meetings	15	16	13	10	10
Committee of the Whole Meetings	7	4	2	4	3
Total	141	138	122	121	130
Organizational Session	1		1		1
Regular Legislative Sessions *	16	15	15	13	13
Special Legislative Sessions *	3	5	5	3	4
Total	20	20	21	16	18

* In 2009, the County Executive's State of the County Message and Budget Address were presented during a regular legislative session.

Preparation for the committee meetings and legislative session requires special attention:

- Resolutions are copied and distributed to all legislators and other affected units of county government prior to committee week
- Agendas for each committee are prepared and distributed with the resolutions
- A clerk is assigned to cover specific committee meetings, take notes, record votes, and prepare minutes of the committee meetings
- Special meetings require special notices to be posted and sent to Legislators as well as the news media at least 48 hours prior to the meeting to comply with the Open Meetings Law

During the committee meetings, resolutions can be defeated, deferred, or approved. Resolutions approved in committee are assigned to the Floor of the Legislature at the ensuing Legislative Session. Following the committee meetings the Legislative Session Agenda, containing all of the Resolutions and other business to come before the Legislature at that Session, is produced and distributed to Legislators, Department Heads, and news media and is posted on our web site.

Following the legislative session, all adopted resolutions are signed by the Clerk of the Legislature and presented to the County Executive for his or her signature. Resolutions that are returned to the Clerk signed by the County Executive are officially enacted and are then distributed to all appropriate units of the County. Resolutions returned unsigned are effective 10 days after they were presented to the County Executive. If a resolution is returned with a veto, the Legislature may act to override said veto and, with a super majority of 15, approve the resolution over the objection of the County Executive.

Minutes of the legislative session are prepared for approval by the Legislature at its next regular session and, once approved, are made part of the Journal of Proceedings.

AD-HOC COMMITTEES

In 2009, an ad-hoc Mineral Rights Committee was formed by Chairman Reynolds to consider the county policy regarding the disposition of real property in light of the anticipated future value of sub-surface mineral rights. The committee met five times and issued its final report on April 30, 2009.

JOURNAL OF PROCEEDINGS

The Clerk of the Legislature is required by State statute to prepare and publish an annual Journal of Proceedings. In 2009, the Journal for the year 2008 was prepared for publishing and published. The 2008 Journal of Proceedings contains **847** pages. The information in the Journal includes:

- Minutes of all Legislative Sessions
- The County's Operating Budget (2009)
- The Operating Budget for Broome Community College (2008-2009)
- Excerpts of the Operating Budgets for each town in the county (2008)
- Consolidated Annual Financial Report of the County (2008)
- County Salary Schedule (2008)
- Schedule of County Real Property Taxes (2008)

LOCAL LAWS

Local Laws are handled and presented to the Legislature in resolution form. If the Local Law is adopted, a public hearing is scheduled before the County Executive following said adoption by the Legislature. After the County Executive conducts the public hearing he or she can sign the Local Law or exercise one of the other alternatives. Once the County Executive signs the Local Law, it is filed with the County Clerk and the Secretary of State of the State of New York. Upon verification of receipt and recording by the Secretary of State, the Local Law is deemed fully enacted and it is distributed to the appropriate departments. A five-year history of local laws follows:

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Local Laws drafted and presented to the Legislature	8	9	12	12	9
Local Laws defeated/withdrawn	2	0	4	2	1
Local Laws adopted by the Legislature	6	7	10	9	8
Local Laws passed by the Legislature and scheduled for public hearing the following year	2	2	0	0	1
Local Laws filed with the Secretary of State	8	8	10	9	7
Local Laws adopted for Public Referendum	0	0	0	1	0

FREEDOM OF INFORMATION REQUESTS

“The Freedom of Information Law (FOIL), effective January 1, 1978, reaffirms an individual’s right to know how government operates. It provides the right of access to records reflective of government decisions and policies that affect the lives of (citizens). The law also preserves the Committee on Open Government, which was created by enactment of the original Freedom of Information Law in 1974.” (From the booklet **“Your right to know. New York State’s Open Government Laws”**)

The Clerk of the Legislature was designated by Resolution 201 of 1986 as the Records Access Officer for all County agencies with the exception of the County Clerk, the Board of Elections and the Department of Social Services. In order to be supported by FOIL, a request must be submitted in writing. In order to assist people seeking public documents, the office developed an “application for public access to records”. FOIL requests are acknowledged in writing and the request is forwarded to the appropriate County agency for response. When the agency responds, the applicant is notified of any charge that may be due. There is a fee, as allowed by statute, for providing records on paper or other media. Those fees are as follows 25 cents per page for paper records (waived for records that are four pages or fewer), \$2.00 for CD’s or Diskettes, \$2.00 for photographs, \$2.00 for maps. Once the fee is collected, the requested information is provided to the individual seeking the information. A log of all requests is maintained, including the applicant’s name, the date, the agency involved and what action was taken.

In 2006, New York State mandated that local governments accept FOIL requests via email. Additionally, a FOIL request that is submitted electronically must be replied to electronically. And, if the information that the applicant requests is available electronically, it must be provided electronically. Electronic records, as stated by state law, if provided by email, are provided at no expense to the applicant. In 2007, we created a dedicated email address for submitting FOIL requests (FOIL@co.broome.ny.us) and a new page on the County’s web site explaining how to apply for Broome County records (<http://www.gobroomecounty.com/FOIL>). The FOIL page not only provides detailed instructions on how to submit a FOIL request by fax, on paper, or via email, it also provides downloadable forms in both Word format and Adobe Acrobat

format. The page also includes a link to the New York State Committee on Open Government's web site to assist people with questions and appeals.

In January of 2009, an online submission form was added which makes it easier for applicants to apply for records. This submission form consists of field where the applicant can provide the required information to find the record they are looking for and a drop-down menu of departments. This online submission form is especially useful to applicants who want to make a request quickly and easily, as well as those who have trouble downloading the pdf/doc form available on the website due to slow internet connection speed. This online submission form has been very popular; in 2009 74% of electronic requests were made through the new online submission form. Compared to 2008, when we did not have the online submission form, there was a 181.6% increase in FOIL requests made online.

In July of 2009, 1,000 information cards were distributed in a trial run to the Broome County Sheriff's Office and the Broome County Security Division. The information cards, the size of a business card so that they could be carried with ease by officers, explain the Broome County Records Access Procedure. This card was intended to educate both employees and constituents without having to implement a large and potentially expensive education program. Further, the cards, which are printed in-house, cost pennies. Many applicants have used these cards in order to access the online form or to guide them to come in and fill out a form. Also, several deputies write the report number on the cards, increasing the ease of access to records for those who need them.

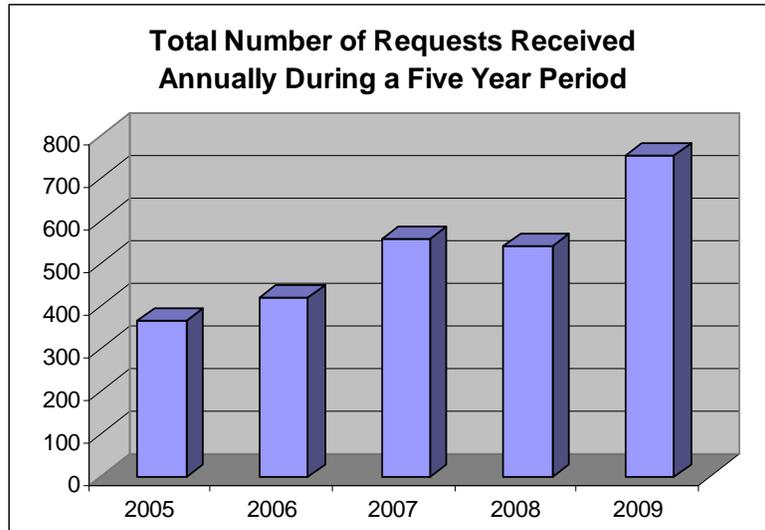
Also, in the Summer of 2009, the Records Access Office revamped many of the forms which are used during the FOIL process. The FOIL form was updated in order to explain the process better to applicants, as well as to gather more information regarding an applicant's request.

The Memo to Departments was updated to include more information about NYS Public Officers Law's time constraints and a due date for a response. This change significantly decreased the amount of time the Records Access Office had to spend tracking down overdue requests in other offices.

All of this has been done to make Broome County government more open and friendly to its constituents.

A five-year history of FOIL requests and the generated revenue follows:

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Paper FOIL Requests			467	421	414
Email FOIL Requests			88	120	339
Total FOIL Requests Processed	365	418	555	541	753
FOIL Requests Revenue	\$1,714.25	\$1,573.46	\$998.25	\$1,171.75	\$1,608.48



While most requests are for records of a single department, some requests require information held by several departments. In 2009, while there were 753 total requests, 782 requests went out to departments.

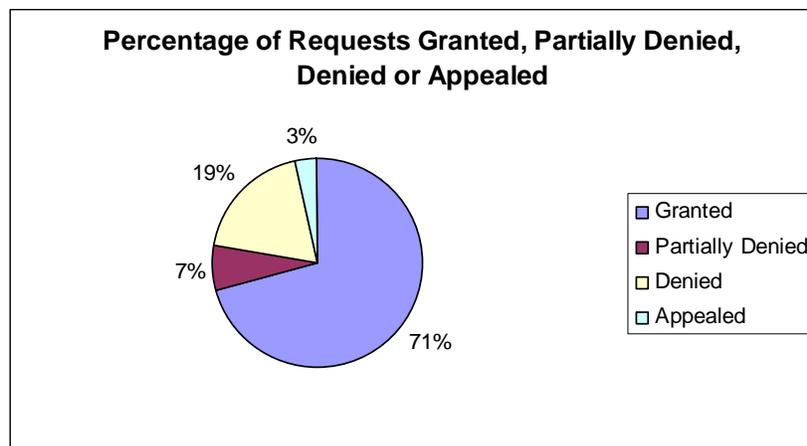
A break down of how many FOIL requests each department received in 2009 follows:

Arena	2	EMS	28	Public Defender	1
Audit	5	EMS-Fire	11	Risk & Insurance	7
Aviation	2	Finance	13	RPTS	22
BCC	15	Health	10	Security	37
Budget	4	Health ENV	39	Sheriff	402
County Clerk	10	Law - Appeals	25	Transit	3
County Attorney	17	Legislature	29	Sheriff/Jail	19
County Executive	3	Personnel	9	Weights & Measures	1
DA	16	Planning	12	Willow Point	1
DPW	13	Probation	2		
DSS	3	Purchasing	21		

There were a total of 550 requests granted, 52 partially denied (*redactions, pages withheld*), and 151 denied for various reasons. Requests are denied by the determination of the department head for reasons such as there being an open investigation (*Public Officers Law §87(2)(e)*), no record maintained by Broome County, the applicant requested the record from the wrong municipality (*ie: record*

maintained by municipal police department, not Broome County Sheriff), exempted by another statute (ie: recordings of 911 calls are exempted by NYS County Law §308(4); information identifying minors is exempted under Juvenile Law), release of record would be an unwarranted invasion of privacy (Public Officers Law §87(2)(b)), record is maintained by the court systems and not available through FOIL, or that the record involves trade secrets (Public Officers Law §87(2)(d)).

When a request is denied or partially denied, the applicant has the opportunity to appeal the denial of information. Per the provisions of the County's policy the appeal is received by the Records Access Officer and entered into our database to track the appeal. All copies of communications from the original request and the appeal of that request's denial are then forwarded to the designated Appeal Officer within the Broome County Attorney's Office. The Appeal's Officer has 10 business days to determine whether the original denial of information will be upheld, partially overturned or overturned. The Appeal Officer must also fully explain the reason(s) for the decision and provide a copy of the decision to the applicant and to the New York State Committee on Open Government. In 2009, there were a total of 25 appeals; 21 appeals resulted in the denial being upheld, 3 denials were partially over-turned and 1 denial was completely overturned.



CODE OF ETHICS

The Office of the Clerk of the Legislature serves as the support unit for the County's Board of Ethics. The Clerk handles correspondence for the Board of Ethics as well as the distribution of the Annual Statement of Financial Disclosure forms. In 2009, **216** forms were distributed to all elected personnel and others who are required to complete the forms as specified in the Broome County Charter and Code. When the completed forms are returned to the Clerk, they are logged in and made available only to the Board of Ethics.

As a result of amendments made to the Code of Ethics in 2007 and 2008, the Clerk of the Legislature has been designated to receive the semi-annual Gift Disclosure Forms recently required by the County Legislature of all county employees. The first forms were received in the second half of 2009.

COUNTY GUIDE

The Clerk of the Legislature compiles and publishes annually a Guide to County, City, Town and Village Officials. Each municipality in the County is contacted and asked to review their information and submit changes and updates. The Real Property Tax Director provides statistical information for each municipality and the Clerk's staff reviews and updates county and other information.

Copies of the Guide are distributed to County Departments and to municipalities throughout the county. For the public, the first copy of the Guide is free. Pursuant to Resolution 319 of 1996 (Local Law Intro. 10) a \$2 fee was instituted to cover the cost of printing and distribution to requesters other than Broome County Government.

The Guide is now also available on the County's web site **WWW.GOBROOMECOUNTY.COM** under Community (Municipalities).

A five-year history of the Guide and the generated revenue follows:

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Copies Published	1,300	1,300	1200	1200	1,000
Revenue from Sale of Guide	\$94	\$60	\$42	\$84	\$10

DESK DIRECTORY (Blotter)

The Desk Directory is published annually by the Clerk of the Legislature. The directory contains the names of county department and division heads, phone numbers, fax numbers, and the calendar of sessions for both the Board of Acquisition and Contract and the County Legislature. The names of county, state, and federal elected officials are also included. Included are the names and telephone numbers for the following:

- All elected Broome County government officials
- All Broome County Departments/Divisions
- County Court Judges and their clerks
- State Supreme Court Justices and their clerks
- Law Library Trustees
- Jury Board Members
- Board of Elections Commissioners and Deputy Commissioners
- United States Senators
- Congressional representatives covering Broome County
- New York state Senator covering Broome County
- Members of the state Assembly covering Broome County

In 2009, the Desk Directory was co-sponsored by the International Brotherhood of Electrical Workers (I.B.E.W.), Local 325, the Plumbers and Pipe Fitters, Local 112, of the United Association of Journeyman and Apprentices of the Pipefitting Industry of the United States and Canada, and the Laborers International Union of North America, Local 7.

Five hundred copies of the Desk Directory were produced distributed to county and other governmental agencies, the sponsors and, if available, to other interested parties.

AGRICULTURAL DISTRICT PROGRAM

In 1971, The New York State Legislature enacted the Agricultural Districts Law, which created the Agricultural District program, a tool for maintaining lands in agriculture and assuring New York's position as an outstanding agricultural state. Rather than seeking to "preserve" agricultural lands, the Agricultural Districts Law seeks to create an economic and regulatory climate which will encourage farmers to continue farming. Relying primarily on the initiative of landowners and local governments with state oversight, the law provides agricultural landowners with a number of benefits and protections.

Agricultural districts are initiated by landowners and ultimately adopted or rejected by the county legislative body, the elected representative of all citizens in the county. Once a district is approved or modified, the information must be sent to the New York State Department of Agriculture and Markets, which assures that the district plans conform with the requirements of the law.

AGRICULTURAL DISTRICTS – EIGHT YEAR REVIEW

The County Legislature must reconsider each Agricultural District every eight years. The Legislature can vote to discontinue the district, or continue the district with or without changes.

In 2009, there were no eight year reviews of Agricultural Districts.

AGRICULTURAL DISTRICTS – ANNUAL INCLUSION PERIOD

The Agriculture and Markets Law was amended by the 2003 New York State Legislature to provide farmers with viable farm land parcels within a certified agricultural district to add those parcels to an existing agricultural district annually instead of waiting until the agricultural district's eight-year review is conducted.

Pursuant to Law, the Broome County Legislature, by Resolution 496 of 2004, established an annual 30-day period during which land owners can submit proposals to include viable farm land within a certified agricultural district. The 30-day period runs annually from December 1 through December 31.

At the end of this 30-day period, all requests for inclusion are referred to the County Agricultural and Farmland Protection Board (AFPB). The AFPB determines if each request for inclusion in an agricultural district consists of predominately viable agricultural land and would serve the public interest by helping to maintain a viable agricultural industry within the district.

The recommendations of the AFPB to include parcels in an agricultural district are made to the County Legislature. Following a public hearing, the County Legislature adopts or rejects a resolution to include the parcels into an existing agricultural district.

INTERNSHIP PROGRAM

In 2007, this office instituted the Legislative Internship program targeted toward college students for multiple purposes. The program offers practical learning opportunities in the Office of the Legislature, which are tailored for college students and graduate students. At the beginning of the program, each intern receives an orientation manual which includes information about county government in New York, and a substantial amount of information about Broome County and its municipalities. At the student's option, the student may arrange for academic credit from his or her college or university. In 2009, three of the eight students who completed the program sought and received academic credit from their respective colleges or universities for their participation in the program.

Participants in the Program assist the Legislative Assistant with research, data compilation and analysis, and other projects as required. The student interns also assist the Chairman and Legislators with public relations, constituent service matters, and other support services and occasionally assist the Clerk and staff with limited tasks. Intern projects are designed in consultation with the Chair of the Legislature, who receives periodic updates of project status.

Upon completion of the Internship Program each intern receives a letter of completion from the Clerk of the Legislature and a letter from the Chairman thanking him or her for the services rendered.

Student Interns assisted staff with research and other items and allowed this office to be more productive in general. In 2009 the Legislature conducted the second annual Green Recognition Program, which is a program recognizing organizations for environmentally friendly practices.

In 2008, this office hosted a number of student interns as follows:

	Winter Break	Spring Semester 2009	Summer 2009	Fall Semester 2009
Undergraduate Student Interns	1	3	1	3

PRESCRIPTION DRUG DISCOUNT PROGRAM

In 2009 Broome County established a Prescription Drug Discount Card Program. All residents are eligible to use this card regardless of their age or income, and this program operates without the use of taxpayer dollars and at no expense to Broome County. Much of the research and initial leg-work for this Prescription Drug Discount Card Program was conducted by a student intern from the MPA Program at Binghamton University's College of Community and Public Affairs in 2008. In 2009, Legislative Assistant Chris Marion was instrumental in the program being approved by the Legislature and in ensuring that distribution of the card to county residents began in September. This office receives utilization reports on a monthly basis.

Prescription Drug Discount Program Usage Statistics

	<u>2009</u>
Total Claims	9,081
Member RX Cost	\$320,281.13
Price Savings	\$234,204.91
% Price Savings	42%

CONCLUSION

We continue to add more and more information to the Legislative Business page on the County web site, which can be found at <http://www.gobroomecounty.com/legis/business>. I would like to thank Chairman Reynolds and all of the Members of the Legislature for their encouragement and support of these openness efforts and all of the work of this office.

Respectfully submitted, September 3, 2010



Eric S. Denk

Appendix A

2009-2010 Members of the Legislature

In 2009, the Broome County Legislature consisted of the following members:

District 1 – Mark R. Whalen

District 2 – Timothy P. Cleary

District 3 – Jason T. Garnar

District 4 – Joseph S. Sanfilippo

District 5 – John F. Hutchings

District 6 – Suzanne M. Gorman Messina

District 7 – Marchie Diffendorf

District 8 – Wayne L. Howard

District 9 – Stephen D. Herz

District 10 – Jerry F. Marinich ***

District 11 – Ronald J. Keibel

District 12 – Donald T. Moran

District 13 – Matthew J. Pasquale

District 14 – Richard A. Materese

District 15 – Gene E. LaBare **

District 16 – Mario M. Nirchi

District 17 – Suzann W. Buchta

District 18 – Barry L. Klipsch

District 19 – Daniel D. Reynolds *

* Chairman

** Majority Leader

*** Minority Leader