

NEW PALTZ | FORUM

Changes needed?

New Paltz forum lays out the Constitutional Convention debate

by Paul Smart

MANY PEOPLE AND groups seem to have opinions about whether New York should hold a Constitutional Convention in 2019, something that will be voted upon this November in a back-of-the-ballot proposition. If it passes on election day, delegates will then be elected in November, 2018.

But what are the facts?

New Paltz-based Ulster Activists, or U-Act, offered up a moderated Constitutional Convention informational session with one advocate and one opponent of the measure at the New Paltz Community Center on September 10. Questions from the event's audience, made up mostly of seniors, demonstrated a convoluted line-up for and against the idea, with most expressing worries whether they were ready to put their basic rights up for a vote in a democratic climate no one seems to trust much.

Speaking on behalf of a convention was SUNY New Paltz professor Gerald Benjamin, director of the Benjamin Center, a regional think tank named in his honor and a former Ulster County legislator who served as the key author of the county's charter system of governance, as well as a noted scholar on the subject of the state constitution. Speaking about the risks of a Constitutional Convention was Zack Smith of NYPAN (New York Progressive Action Network), and a noted veteran of recent electoral battles of recent years.

The question whether to hold or not hold regular constitutional conventions was first raised during discussions held in flight and finally okayed in Kingston 240 years ago this past April. It has since been mandated that voters be asked every 20 years



noted. "We need to restore faith in our government."

Smith addressed what he described as large differences between content and process regarding a Constitutional Convention, a disparity between "the aspirational and the functional." He brought up the problems of having such an important question on the back of a ballot, and the dangers of "dark money" in all elections these days, and especially those with less media attention such as one for convention delegates.

Smith said he believed it easier, in practical terms,

whether the League of Women Voters, which have traditionally been against constitutional conventions, were for or against this one (a text came in during the meeting reiterating that, as of now, they are for this one). Several people brought up ALEC, the right-wing non-profit that coordinates efforts in GOP-held states across the country. One woman raised fears about the nation being one state away from a federal revision of the U.S. Constitution and its enshrined rights.

"It's like jumping off a cliff thinking you'll end up

if they'd like to undertake a revision.

The first state Constitution was adopted in 1777. Three times it was redone – 1821, 1846 and 1894.

In 1938, a list of changes to the 1894 constitutional revision were okayed (several were not). In 1967, after delegates were chosen on ballots by party for the first time, all changes were put into a single take-it-or-leave-it proposal that included state funding for parochial schools...and the whole thing failed resoundingly.

Should voters approve a convention this November, 15 at-large members and three members per Senate district will be elected during the November, 2018 general election for a total of 204 delegates. These members will be compensated on the level of an Assembly member and the Convention will meet continuously in the state Capitol in Albany until they conclude their work in time for the November, 2019 election, when their work would go to the voters of the state.

Past conventions have tended to be made up of politicians and, in 1967, union members as well. Few women have ever participated.

In New Paltz on Sunday, Benjamin's Powerpoint presentation broke down the general things a Constitutional Convention would look at and addressed current phenomenon that would be at play, including recent ethical lapses in the state legislature, scheduling and other difficulties within New York's judicial system, and the lessening participation in electoral politics. He noted how other states do things – California has its direct propositions, say, while Florida convenes a bipartisan committee to look at its constitutional matters every ten years. Issues that interested him included ways to better balance the state's legislature and its executive branch, questions involving term limits, the ideal of a neutral redistricting, better environmental protections, and the codification of new rights for state citizens. He called such a convention, "a referendum on state government" and a chance to "see if we can do better...a chance to push the reset button."

"People are energized by the last election," he

to focus on reform and progressive amendments that had already passed the state Assembly and only needed Senate approval, held up by the thorny nature of the divided legislative body's control by Republicans (with the help of the breakaway Independent Democratic Caucus.) Concentrating on six top 12 Senate races, he felt, was easier than looking at 204 convention delegates statewide.

Should fears of "dark money" usurpation of the process prove correct, he added, New York could lose elements of home rule it's held on to for generations, lose its collective bargaining rights like other states around the nation, see its pensions and social welfare programs cut, and face new threats to public education.

Both men addressed the two ways in which changes can be made to our constitution to codify new rights or fix systemic problems; they also agreed that among the issues needing fixes were endemic legislative dysfunction and corruption, especially in the State Senate; a flawed electoral process including antiquated voter registration systems; a strengthened Forever Wild provision to maintain a clean and healthy environment; the establishment of better educational opportunities including a right to debt free higher education; expanded civil rights protections; a rethink of the state's judicial system; possible inclusion of health care coverage within the constitution, and revived home rule control.

Benjamin believes that fears of a right-wing convention stripping away rights flew in the face of state political realities; by his figuring, 204 delegates would break down around 114-90 for Democrats on a conservative estimate.

"The reason the right is against this is because they fear who will win," he said. "We need to be factual in these conversations. The fundamental point is that our institutions aren't working. They're 19th century institutions."

Smith countered with talk of money, of how much those rallying against a convention – unions, in particular – get routinely outspent by out-of-state PACs.

Audience questions focused on "dark money," and

okay," one person noted.

"The incongruity here is that we're given a chance to take back our government and are not taking that chance because we're afraid of losing," Benjamin countered. "We have lost the notion that we can do better."

Both Smith and Benjamin said they were attending many such dialogues, hoping word gets out over the coming weeks about the Con-Con question on the back of ballots come November 7. They also added that should the constitutional convention of 2019 get voter approval this year, all systems for choosing delegates, and such races, would immediately be up for grabs.

On another front, neither man addressed questions about the constitutionality of such conventions that have been in argument now since 1801.++

For more on Constitutional Convention Risks, Smith put forth the following links:

[https://www.nysut.org/resources/special-resources/sites/no-constitutional-convention \(the state teachers union\);](https://www.nysut.org/resources/special-resources/sites/no-constitutional-convention%20(the%20state%20teachers%20union)) [http://www.rockinst.org/nys_concon2017/\(Rockefeller University\);](http://www.rockinst.org/nys_concon2017/(Rockefeller%20University)) [https://www.nysna.org/blog/2017/08/24/nurses-say-no-constitutional-convention \(NYSNA\);](https://www.nysna.org/blog/2017/08/24/nurses-say-no-constitutional-convention%20(NYSNA)) and <http://www.nyagainstcorruption.com/>

For more on Constitutional Convention Merits, Benjamin handed out a link to the New York Bar Association: (http://www.nysba.org/CustomTemplates/SecondaryStandard.aspx?id=73790), the Committee for a Constitutional Convention (http://www.concon19.org/CitizensUnion) and Citizens Union itself (http://www.citizensunion.org/vote_yes_for_a_new_york_state_constitutional_convention)

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