

# Law & Major Contracts

## BOL Meeting Minutes - Published Draft



Committee Chair: Nancy Barr

800 Michaelan Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
www.westchesterlegislators.com

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Wednesday, July 14, 2021

10:00 AM

Committee Room

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### CALL TO ORDER

Joint with the Budget & Appropriations committee

*With a quorum present, Chair Barr called the meeting to order at 10:10 a.m.*

*Others in attendance: BOL: Legislators: Catherine Parker, Tyrae Woodson-Samuels, Ruth Walter and Damon Maher; Legislators (Remote): Catherine Borgia, Chris Johnson, and Alfreda Williams; Committee coordinators: Jill Axelrod and Alie Restiano; Lisa Hochman, Melanie Montalto (Remote) LAW: Fred Sullivan, Sean Carey, Jack Micciche, and Christine Feimer*

### MINUTES APPROVAL

July 12, 2021 at 1:00 p.m.

On motion of Legislator Alvarado, seconded by Legislator Smith, the minutes were approved. The motion carried unanimously.

### I. ITEMS FOR DISCUSSION

#### 1. [2021-405](#) **ACT - Essential Manufacturing Corporation Lawsuit**

Guests: County Attorney John Nonna and Assistant County Attorney Jack Micciche

*County Attorney John Nonna was unable to attend. Fred Sullivan, Assistant Chief Deputy County Attorney, appeared on his behalf.*

*Mr. Micciche explained that the County is seeking authorization to bring a lawsuit against Essential Manufacturing Corporation and Jason Brand individually to recover payment made by the County for 3M brand N95 masks which turned out to be counterfeit. Legislator Parker asked if they had contacted the Attorney General to pursue fraud charges, and Legislator Borgia asked if we had consulted with the County Department of Consumer Protection about this. Mr. Sullivan said they could answer these questions in executive session. Legislator Alvarado noted that we should not just return the counterfeit masks back to the company because we need to ensure that they are not put back in the market. Chairman Boykin asked if we can dispose of the masks since they are a fraudulent product.*

*Legislator Covill asked how the County determined that Essential Brands Corporation was a responsible bidder. Mr. Sullivan said he did not know what type of investigation was done, but he can find out. Legislator Barr asked if the person responsible for ordering the masks still works for the County, and Mr. Sullivan said he can also find that out.*

*With a motion by Legislator Smith seconded by Legislator Covill, the committee went into executive session at 11:02 a.m. With a motion by Legislator Alvarado seconded by Legislator Smith, the committee came out of executive session at 12:02 p.m.*

This ACT was tabled

2. [2021-438](#) **Lawsuit Settlement - ACME Bus Corp. v. Westchester County Dept. of Health**

Guests: County Attorney John Nonna and Senior Assistant County Attorney Sean Carey

*Mr. Carey stated that the County wants to settle a proceeding brought in bankruptcy court by ACME Bus Corp. , who provided bus transportation services to school districts in Westchester. Acme alleged that the Department of Health breached a contract for transportation services for children with special needs in northern Westchester by failing to approve and reimburse ACME for transportation services during the statewide school closure that occurred between March 2020 and August 2020. The proposed settlement would require the County to pay ACME \$15,000, withdraw a proof of claim filed against ACME in its related bankruptcy proceeding, and waive any right of payment on such claim.*

*Legislator Smith asked if the County has ensured that we won't do business with ACME going forward. Legislator Covill asked if we have a list of nonresponsible vendors, and how long a vendor can stay on the list. Legislator Shimsky noted that this is an issue in general, particularly with construction contracts. Mr. Carey said it is difficult because companies are entitled to due process before being put on the list, and a company can reincorporate under a different structure. Legislator Covill said risk management and the County Attorney should meet with the committee to discuss this issue. Legislator Maher agreed with Legislator Covill that there should an Inspector General or Controller for the County to handle this.*

On motion of Legislator Alvarado, seconded by Legislator Smith, the above item was signed by committee.

## **II. OTHER BUSINESS**

County Attorney John Nonna will provide an update on the latest developments regarding the opioid lawsuit.

*Mr. Nonna was unable to attend. He will provide an update at a later time.*

## **III. RECEIVE & FILE**

## **ADJOURNMENT**