

# 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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Monday, July 19, 2021

10:00 AM

Committee Room

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### CALL TO ORDER

Joint with Budget & Appropriations committee

*With a quorum present, Chair Barr called the meeting to order at 10:13 a.m.*

*Others in attendance: BOL: Legislators: David Tubiolo, Ruth Walter, Tyrae Woodson-Samuels, Damon Maher, Alfreda Williams, Catherine Parker, Chris Johnson, and Catherine Borgia (Remote); Committee Cxoordinators: Jill Axelrod and Alie Restiano; Melanie Montalto.*

**Present:** Committee Vice-Chair Barr, Legislator Boykin, Legislator Covill, Legislator Gashi, Committee Vice-Chair Shimsky and Legislator Smith

**Absent:** Legislator Alvarado

### MINUTES APPROVAL

July 14, 2021 at 10:00 a.m.

*Chair Barr requested that the minutes be amended to reflect that County Attorney John Nonna was unable to attend the meeting, and Assistant Chief Deputy County Attorney Fred Sullivan appeared on his behalf.*

On motion of Legislator Gashi, seconded by Legislator Covill, the minutes were approved as amended. The motion carried unanimously.

### I. ITEMS FOR DISCUSSION

[2021-405](#)

#### ACT - Essential Manufacturing Corporation Lawsuit

Guest: County Attorney John Nonna

*Mr. Nonna answered the questions raised at the last meeting. He said the purchasing department requested bids for several items of personal protective equipment, including "3M N95 masks or equal." Mr. Nonna noted that the action may not be criminal because Essential Brands did provide masks that were labeled 3M, but they turned out to be counterfeit. Legislator Parker asked why, if the 3M masks were the gold standard, we allowed for products that were equal in form or function to the 3M masks. Mr. Nonna said they are looking into that, and that provision may have come from the Health Department of Department of Emergency Services.*

*Mr. Nonna said that the County could not seek any kind of injunction to freeze the assets of Essential Brands because we could not prove immediate and irreparable loss or damage.*

*He said he referred this to the Westchester County District Attorney's Office, and it is being*

handled by Gwen Galef, Bureau Chief of the Trials & Investigation Division of the Economic Crimes Bureau.

Chair Barr said that she Googled Jason Brand, and saw that he and his father were convicted in 2015 for looting a charity they owned, and the address of one of the homes he owns is the same as the one on the bid document. Mr. Nonna said he will let the DA know about that. Chair Barr questioned our process for due diligence in determining the lowest responsible bidder, since a simple Google search turned up fraud that should have automatically precluded the bidder. Mr. Nonna said it is hard to meet the standard necessary to designate a contractor as non-responsible, and he is not sure if a prior conviction for something unrelated is enough. He said that the Contracts Department is preparing a memo on how we can deal with this issue going forward. He noted that there is a provision in the General Municipal Law that allows you not to accept the lowest bidder, and look at the value of the contract. He said we need to amend our County law to provide that we do not have to accept the lowest bidder.

Chair Barr asked if Mr. Nonna had contacted the Attorney General's office, and he said he can ask the Westchester DA's attorney to check with the Attorney General to see if this company is being investigated by the AG's office.

In response to concerns about returning the masks, Mr. Nonna said that in order to get restitution, we would have to return the masks, but if the DA gets involved and pursues a criminal indictment, we could turn the masks over as evidence.

On motion of Legislator Smith, seconded by Committee Vice-Chair Shimsky, the above item was signed by committee and sent to the Board of Legislators. The motion carried unanimously.

## **II. OTHER BUSINESS**

## **III. RECEIVE & FILE**

## **ADJOURNMENT**

Moved by Committee Vice-Chair Shimsky, seconded by Legislator Smith, the Committee adjourned at 12:17 p.m..