



Budget & Appropriations

BOL Meeting Minutes - Final

Committee Chair: Catherine Borgia

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

Wednesday, July 14, 2021

10:00 AM

Committee Room

CALL TO ORDER

Meeting jointly with Law & Major Contracts

Please Note: Chairwoman Catherine Borgia will be joining the meeting remotely. Her address will be: Clear View School and Day Treatment Center, 480 Albany Post Road, Briarcliff, NY 10510

*With a quorum present, Chair Borgia called the meeting to order at 10:10 AM.
Others in Attendance: BOL: Jose Alvarado, Kitley Covill, MaryJane Shimsky, Colin Smith, Alessandra Restiano, Lisa Hochman, Jill Axelrod, Carolyn Stevens BOL Remote: Alfreda Williams (not eligible to vote), Christopher Johnson (not eligible to vote), Melanie Montalto
LAW: Fred Sullivan, Jack Micciche, Sean Carey, Christine Feimer*

Present: Committee Chair Borgia, Legislator Barr, Legislator Boykin, Legislator Cunzio, Committee Vice-Chair Gashi, Legislator Maher, Legislator Parker, Legislator Tubiolo, Legislator Walter and Legislator Woodson-Samuels

Absent: Legislator Johnson and Legislator Williams

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

[2021-405](#)

ACT - Essential Manufacturing Corporation Lawsuit

AN ACT authorizing the County Attorney to commence legal action, including a lawsuit, against Essential Manufacturing Corporation and Jason Brand, individually, to recover moneys paid by the County of Westchester to Essential Manufacturing Corporation for 3M brand N95 respirator masks.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

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

Assistant Chief Deputy County Attorney Fred Sullivan appeared for County Attorney John Nonna who was unable to attend.

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 Maher seconded by Legislator Woodson-Samuels, the committee went into executive session at 11:02 a.m. With a motion by Legislator Walter seconded by Legislator Woodson-Samuels, the committee came out of executive session at 12:02 p.m. Legislator Maher made a motion, the motion was not seconded, therefore the motion failed. Chairwoman Borgia asked that the item be tabled for further discussion.

This ACT was tabled

[2021-438](#)

Lawsuit Settlement - ACME Bus Corp. v. Westchester County Dept. of Health

AN ACT authorizing the County of Westchester to settle the adversary proceeding pending in the United States Bankruptcy Court, Eastern District of NY, titled ACME Bus Corp. v. Westchester County Department of Health.

COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guests: County Attorney John Nonna & 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 Maher, seconded by Legislator Boykin, the above item was signed by committee. The motion carried by the following vote:

Aye: Committee Chair Borgia, Legislator Barr, Legislator Boykin, Legislator Cunzio, Committee Vice-Chair Gashi, Legislator Maher, Legislator Parker, Legislator Tubiolo, Legislator Walter and Legislator Woodson-Samuels

Absent: Legislator Johnson and Legislator Williams

II. OTHER BUSINESS

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

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Maher, seconded by Legislator Woodson-Samuels, the Committee adjourned at 12:04 PM