



Legislation

BOL Meeting Minutes - Final

Committee Chair: Colin Smith

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

Monday, June 13, 2022

1:00 PM

Committee Room

CALL TO ORDER

Joint with the Committee on Housing

This meeting will be held pursuant to Chapter 1 of the New York State Laws of 2022 and Executive Order 11, as extended, which authorize any public body to meet and take such action authorized by law without permitting in public-in-person access to meetings and authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed. To access the meeting, please visit: <https://westchestercountyny.legistar.com>.

With a quorum present, Chair Smith called the meeting to order at 1:10 PM.

Others in Attendance: BOL - Legislator Catherine Parker, Legislator Erika Pierce, Legislator David Tubiolo, Legislator Jewel Williams Johnson, Melanie Montalto, Marcello Figueroa, Dayana Gomez, Anand Singh, Amy Vele, Karen Vele; Department of Law - Shawna Macleod

Present: Committee Chair Smith, Legislator Barr, Legislator Cunzio and Legislator Maher

Absent: Legislator Johnson

Remote: Legislator Borgia, Legislator Boykin, Committee Vice-Chair Gashi and Legislator Shimsky

MINUTES APPROVAL

May 23, 2022 at 1:00 PM Minutes

On motion of Legislator Maher, seconded by Legislator Shimsky, the minutes were approved. The motion carried unanimously.

June 1, 2022 at 1:00 PM Minutes

On motion of Legislator Maher, seconded by Legislator Shimsky, the minutes were approved. The motion carried unanimously.

I. ITEMS FOR DISCUSSION

[2022-261](#) PH-Office of Housing Counsel

A RESOLUTION to set a Public Hearing on "A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 187 relating to the creation of the Office of Housing Counsel." [Public Hearing set for _____, 2022 at _____ .m.]. LOCAL LAW INTRO: 2022-262.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING

Guests: Department of Law - John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney; The Building & Realty Institute of Westchester - Phil Weiden, Government Affairs Director

Mr. Nonna gave a recap of the legislation, and spoke briefly about previously passed legislation around the country, including the NYC legislation which this is modeled on. A discussion ensued on the prioritization of specific municipalities with Legislator Maher noting that some towns have many more landlord tenant proceedings compared to others. which Legislator Barr asked if it was possible to codify that, to which Mr. Nonna said that it was and did make sense, but also that it was dependent on who responded to the Request for Proposals. Legislator Barr asked if there was a mechanism in the law that could help tenants prior to the initiation of formal eviction proceedings, mentioning that currently community groups did this. Mr. Nonna said that while the law provides for outreach, the triggering mechanism is a legal proceeding and added that while conducting research, no other law had that. Legislator Woodson-Samuels added that money needs to specifically earmarked for this. Legislator Maher said that due to the relatively low number of attorneys who practice landlord/tenant proceedings, identifying them might help streamline the process. Mr. Nonna said that one of the director's duties would be to engage in outreach, before speaking about the ways this would be accomplished.

Mr. Nonna added that another very important aspect of the law is the office coordinating with the court system. Legislator Woodson-Samuels referenced funding allocated to run this office and asked for more information about the fiscal impact. Legislator Cunzio asked if the director of the office would be a new budget line, which Mr. Nonna confirmed, along with if there were any stipulations tied to this role, to which Mr. Nonna said he didn't think they could work elsewhere simultaneously. Ms. Dolgin-Kmetz noted that the legislation didn't specify the director had to be a lawyer, as requested by the County Executive's office. Chair Smith noted that while it might not be impossible, it would be very difficult for them and made sense to require them being one due to how frequently landlord tenant laws change in NYS. Legislator Maher DM asked if the director position would be subject to confirmation by the Board of Legislators, with the majority of committee members agreeing that it would be, and Mr. Nonna said he would send a list of positions that currently require legislative confirmation.

Mr. Nonna said that one thing that needed to be decided upon was how municipalities would be prioritized, to which committee members said that first it made sense to speak with them first. Mr. Nonna said that obtaining data on eviction proceedings would be helpful, however that might prove difficult. Legislator Maher suggested that taking into account a court's landlord tenant calendar should be considered as they varied in frequency from several times a week to once a month. Chair Smith mentioned the Towns of Ossining, Greenburgh, and Cortlandt, and Village of Port Chester should be given consideration for priority status.

Mr. Weiden introduced himself and spoke about the Builder's Realty Institute, their clientele, and types of tenants who would be affected by this legislation. He spoke about the current initiatives related to preventing evictions and said that they support this proposal, albeit with some suggested amendments. He spoke to the great need for legal representation in the County, with roughly 93% of tenants lacking representation during eviction proceedings, disproportionately affecting communities of color. He suggested instead of using a household income of 60% area median income instead of 300% of the federal poverty level to determine eligibility. Chair Smith asked if he believed that the relatively low number of evictions in the county would trend upwards with the eviction moratorium likely being lifted, to which Mr. Weiden said that he did not due to the strong support for state and local programs aimed at

preventing evictions and reimbursing landlords. He said that the NYS Emergency Rental Assistance (ERAP) has been crucial to this, as it guarantees families stay in their homes for at least 1 year, and that landlords are reluctant to initiate an eviction proceeding.

Legislator Barr asked about replacing tenant with occupant in the legislation, as that might not fully capture who is living there and Mr. Figueroa said that a tenant is defined as someone who holds a legal relationship with the lease whereas an occupant would be someone living there, as defined by NYS law. Discussion ensued on the merits of making the change, and Mr. Nonna said that the definition of a covered individual came from the NYC law and included a tenant or anyone who has the legal standing to be a respondent. Legislator

Woodson-Samuels said that while we want to protect tenants, we also want to make sure that landlords don't go perpetually unpaid. It was agreed that while the NYC law has been highly successful, obtaining statistics that show that or bringing in someone from that program would be beneficial.

[2022-262](#)

LOCAL LAW-Office of Housing Counsel

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 187 relating to the creation of the Office of Housing Counsel.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HOUSING

Guests: Department of Law - John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney; The Building & Realty Institute of Westchester - Phil Weiden, Government Affairs Director

For discussion on 2022-262, please refer to the previous item.

[RES-2022-115](#) **PH-Use of Videoconferencing**

A Public Hearing on "A LOCAL LAW authorizing the use of videoconferencing for members of public bodies of the County's executive branch." [Public Hearing set for June 27, 2022 at 7:30 p.m.]. LOCAL LAW INTRO: 2022-289.

Submitted by: COMMITTEE ON LEGISLATION

Guests: Department of Law - John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney

Ms. Macleod explained the recent changes to the NYS Open Meetings Law (OML) procedures, speaking about why this law was necessary due to the COVID-19 pandemic, noting that as numbers around the country are improving, unless extended, Governor Hochul's executive order permitting public bodies to meet and conduct business remotely, would expire tomorrow. She continued that June 14th is the last day that the County may operate under current protocols and that as of June 15th, public bodies will require physical presence to count towards a quorum, and that remote participation is still allowed, provided that the meeting location is noticed and publicly accessible. She spoke about a measure passed as part of the NYS budget process, that allows localities to adopt their own remote meeting laws, which these items before committee refer to.

Ms. Macleod said that the videoconferencing laws for the Office of the County Executive and the Board of Legislators (BOL) are essentially the same in how they operate and what they achieve, however Ms. Dolgin-Kmetz added that the Chairwoman of the Board will decide what constitutes extraordinary circumstances for the legislative branch, and the County Executive would decide the same for the executive branch. Discussion ensued on what constituted

these circumstances and Ms. Macleod said that while the NYS OML specifies certain requirements, the recent measure passed by the state permitting these proposed laws are fairly flexible, noting the different ways something is or is not defined as extraordinary circumstances. She added that the Department of Law consulted the Committee on Open Governments in drafting this legislation and they provided general guidance towards providing as much transparency as possible, noting that things happen on a case by case basis. Further discussion ensued on what constitutes extraordinary circumstances, and Legislator Boykin said too much focus may be given to extraordinary circumstances, and that it would appear that for all intent and purposes, the BOL will operate under pre-pandemic protocols. Legislator Barr agreed but asked about the notice requirement for the BOL's version of the law, to which Ms. Macleod and Ms. Hochman confirmed that if a meeting is planned a week or more in advance, then 72 hours notice must be given, or as soon as practicable. Ms. Macleod said that the prevailing view, which aligned with the Committee on Open Government's view, was that quorum can still be achieved by noticing the location of a legislator and making it publicly accessible, and giving notice at the earliest opportunity possible. Further discussion ensued on how that would affect the scheduling of committee meetings, which sometimes change at the last minute.

Legislator Maher asked if the law required cameras to be turned on, to which Ms. Macleod confirmed, noting participants must be seen, heard, and understood for the entirety of the meeting, which the Department of Law agreed with. Chair Smith summed up the laws, stating that if a member planned on being remote, let staff know as early as possible so they can notice the location and leave their screens on. Legislator Barr said that members must get used to the idea of coming in person or noticing their locations, as members participating remotely could not vote, without there being a physical quorum of members present in the room. Ms. Macleod said that, as written, the law is slated to expire in 2024, although it could also have its requirements relaxed. It was confirmed that Legislator Borgia, as Chairwoman of the BOL, had the authority to determine what an extraordinary circumstance was, and she said that this would be added to the BOL's rules.

On motion of Legislator Barr, seconded by Borgia, the above item was signed by committee to the Board of Legislators committee, due back on 6/13/2022. The motion carried by the following vote:

Aye: Committee Chair Smith, Legislator Barr, Borgia, Legislator Boykin, Committee Vice-Chair Gashi, Legislator Maher and Legislator Shimsky

Absent: Legislator Cunzio and Legislator Johnson

LOCAL LAW-Use of Videoconferencing

A LOCAL LAW authorizing the use of videoconferencing for members of public bodies of the County's executive branch.

Submitted by: COMMITTEE ON LEGISLATION

Guests: Department of Law - John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney

For discussion on the item, please refer to 2022-288.

[RES-2022-116 PH - Videoconferencing for the Board of Legislators](#)

A Public Hearing on a "Local Law authorizing the use of videoconferencing for members of the County Board, its committees and its subcommittees." [Public Hearing set for June 27, 2022 at 7:30 p.m.]. LOCAL LAW INTRO: 2022-302.

Submitted by: COMMITTEE ON LEGISLATION

Guests: Department of Law - John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney

For discussion on the item, please refer to 2022-288.

On motion of Borgia, seconded by Committee Chair Smith, the above item was signed by committee to the Board of Legislators committee, due back on 6/13/2022. The motion carried by the following vote:

Aye: Committee Chair Smith, Legislator Barr, Borgia, Legislator Boykin, Committee Vice-Chair Gashi, Legislator Maher and Legislator Shimsky

Absent: Legislator Cunzio and Legislator Johnson

Proposed LL - Videoconferencing for the Board of Legislators

A LOCAL LAW authorizing the use of videoconferencing for members of the County Board, its committees and its subcommittees.

Submitted by: COMMITTEE ON LEGISLATION

Guests: Department of Law - John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney

For discussion on the item, please refer to 2022-288.

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Barr, seconded by Legislator Shimsky, the Committee adjourned at 2:49 PM.