

Law & Major Contracts

BOL Meeting Minutes - Published Draft



Committee Chair: Damon Maher

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

Monday, November 27, 2023

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations committee.

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/>. This website also provides links to materials for all matters to be discussed at a given meeting. *With a quorum present, Chair Maher called the meeting to order at 12:16 p.m.*

Others in Attendance: BOL: Legislators: Erika Pierce, Jose Alvarado, and Symra Brandon; Legislator James Nolan (Remote); Legislator-Elect Judah Holstein; Committee Coordinators: Jill Axelrod and James Silverberg; Marcello Figueroa, Dylan Tragni, and Lisa Hochman; GUESTS: Law Dept.: John Nonna and Sean Carey; Ira Schulman

Present: Committee Chair Maher, Legislator Barr, Committee Vice-Chair Imamura, Legislator Parker and Legislator Williams Johnson

Remote: Legislator Smith

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

1. [2023-489](#) **ACT - Compromise of Claim - "B.J."**

Guest: Law Dept.: Associate County Attorney Sean Carey

This item was taken up out of order, after discussion of Item #2 on the agenda.

Mr. Carey explained that on October 22, 2018, B.J., an electrician in the County's Department of Environmental Facilities, tripped and fell on construction materials that were left out in the North Yonkers Pump Station's maintenance room by a County vendor. When he fell, he was carrying a 100-pound auxiliary-generator battery, which fell on his shin and injured his right ankle, shin, and arm. He underwent surgery and missed 41 weeks of work.

Mr. Carey said that B.J. filed a Workers' Compensation claim and brought a personal-injury action against the County vendor. On October 5, 2023, B.J. agreed to settle his personal-injury action for \$215,000, pending the County's consent. B.J. had attorney's fees of

\$71,666.67 and costs and disbursements of \$5,582.70, for a total litigation cost of \$77,249.37.

Mr. Carey stated that between the date of the accident and the proposed settlement, the County expended medical benefits of \$14,111.59 and indemnity (lost wage) benefits of \$36,803.65, for a total of \$50,915.24. The County Attorney wants to compromise the County's claim for reimbursement by reducing its lien by 35.93% (\$18,293.85), and accept \$32,621.39 in satisfaction of its present lien. After the County is reimbursed and counsel fees are paid, B.J. would receive \$105,129.24.

On motion of Committee Vice-Chair Imamura, seconded by Legislator Barr, the above item was signed by committee and referred to Board of Legislators. The motion carried by the following vote:

Aye: Committee Chair Maher, Legislator Barr, Committee Vice-Chair Imamura, Legislator Parker, Legislator Smith and Legislator Williams Johnson

2. [2023-498](#) **ACT - Lawsuit Settlement of Yonkers Contracting v. County of Westchester**

Guests: Law Dept.: County Attorney John Nonna; Sheppard Mullin: Ira Schulman, Partner
County Attorney Nonna and Mr. Schulman discussed the item with the committee. With a motion by Legislator Imamura seconded by Legislator Barr, the committee went into executive session at 12:20 p.m. to discuss legal advice and the legal theory for settlement of the case. With a motion by Legislator Imamura seconded by Legislator Barr, the committee came out of executive session at 12:30 p.m.

On motion of Committee Vice-Chair Imamura, seconded by Legislator Williams Johnson, the above item was signed by committee and referred to Board of Legislators. The motion carried by the following vote:

Aye: Committee Chair Maher, Legislator Barr, Committee Vice-Chair Imamura, Legislator Parker, Legislator Smith and Legislator Williams Johnson

3. [2023-507](#) **ACT - Enter into Agreement with Jackson Lewis P.C. to serve in an "of counsel" to the County Attorney**

Guest: Law Dept.: County Attorney John Nonna

Before discussion of this item began, Chair Maher called for a motion to adjourn. A motion was made by Legislator Parker and seconded by Legislator Williams Johnson, and a roll call vote was taken. Chair Maher voted aye, and Legislators Imamura, Barr, Parker, Smith, and Williams Johnson voted no. The motion failed.

Mr. Nonna said that this would authorize the County to enter into an agreement to retain the law firm of Jackson Lewis to provide counsel to the County on the issue of multi-employer pension plan withdrawal liability. He noted that he would be dealing with one partner of the firm, Keith Dropkin, who has specialized expertise on this complicated issue, and provided counsel on this to the County ten or eleven years ago. He also noted that very few firms or lawyers have expertise in this area.

Legislator Barr asked if we can provide in the contract that we are retaining only Mr. Dropkin for advice on this one specific issue. Mr. Nonna said he can add language clarifying that to the contract.

Legislator Nolan asked whether the union has brought up any concerns about the County dealing with this firm. Mr. Nonna said they have not yet told either side who our law firm is.

With a motion by Legislator Imamura seconded by Legislator Barr, the committee went into executive session at 12:47 p.m. to discuss legal matters and legal advice. With a motion by Legislator Imamura seconded by Legislator Parker, the committee came out of executive session at 1:14 p.m.

County Attorney Nonna said he would clarify the proposed contract and research other possible of-counsel lawyers prior to the next meeting.

This matter was continued.

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

Moved by Committee Vice-Chair Imamura, seconded by Legislator Barr, the Committee adjourned at 1:17 p.m.. by the following vote:

Aye: Committee Chair Maher, Legislator Barr, Committee Vice-Chair Imamura, Legislator Parker, Legislator Smith and Legislator Williams Johnson