

Parks & Recreation Meeting Agenda



Committee Chair: David Tubiolo

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

Monday, November 8, 2021

10:00 AM

Committee Room

CALL TO ORDER

Meeting with Budget & Appropriations and Law & Major Contracts

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

[2021-528](#) **ACT - Retainer Amendment - Standard Amusement**

AN ACT authorizing the County to amend an agreement with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, pursuant to which the firm was retained, at County expense, to serve in an "of counsel" capacity to the County Attorney, as needed, in connection with the bankruptcy filing by Standard Amusements LLC in the United States Bankruptcy Court for the Southern District of NY, by increasing the authorized not-to-exceed amount of the agreement by NINETY THOUSAND (\$90,000) DOLLARS.

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

Joint with B&A and Law & Major Contracts

Guest: County Attorney John Nonna

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT



George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

September 15, 2021

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is an Act which, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to amend an agreement (the "Agreement") with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul, Weiss"). Pursuant to the Agreement, the County retained Paul, Weiss, at County expense, to serve in an "of counsel" capacity to the County Attorney in connection with the Chapter 11 bankruptcy petition and the adversary proceeding (the "Adversary Proceeding") filed by Standard Amusements LLC ("Standard") in the United States Bankruptcy Court for the Southern District of New York. In the Adversary Proceeding, Standard claimed that the County breached the Amended and Restated Playland Management Agreement (the "Management Agreement"). The County asserted counterclaims for breach against Standard.

The proposed amendment would increase the authorized not-to-exceed amount of the Agreement (the "NTE Amount") by Ninety Thousand Dollars (\$90,000.00), from an amount not-to-exceed Five Million Five Hundred Thousand Dollars (\$5,500,000.00) to a new amount not-to-exceed Five Million Five Hundred Ninety Thousand Dollars (\$5,590,000.00), which shall be payable at various hourly rates for various personnel. The hourly rates to be paid by the County include a previously-obtained additional discount of 5% off of the standard hourly rates from Paul, Weiss, which was in addition to the discount of 15% that was originally provided, meaning that the total discount from the firm's standard hourly rates is now 20% for pending and future invoices.

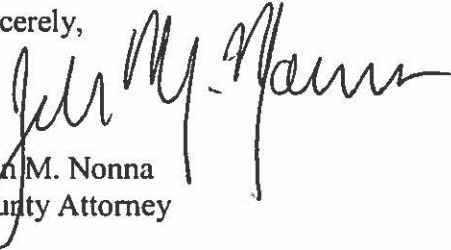
The reason for the requested increase in the NTE Amount is twofold: (1) During the period from February through April 2021, Paul, Weiss partner Elizabeth Sacksteder participated with the County Attorney's Office in multiple meetings before your Honorable Board's committees to explain and answer questions about the revised Playland Management Agreement. Ms. Sacksteder was also involved in negotiations with Standard Amusements and its investors' counsel over revisions to the Playland Management Agreement requested by your Honorable

Board. This work amounts, through June, to \$69,446.83 in currently-owed fees, of which \$41,476.69 needs to be added to the NTE Amount. (2) The remainder of the increase in the NTE Amount under the proposed amendment will be for the possible need for Paul, Weiss services for the rest of this year.

The proposed amendment does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617. No environmental review is required. Please refer to the memorandum from the Department of Planning dated May 14, 2021, which is on file with the Clerk of the Board of Legislators.

I respectfully recommend your Honorable Board's approval of the attached Act.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Nonna". The signature is written in a cursive style with a long, sweeping tail.

John M. Nonna
County Attorney

JMN/bdm/nn

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Attorney recommending the approval of an Act which, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to amend an agreement (the “Agreement”) with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”). Your Committee has been advised that, pursuant to the Agreement, the County retained Paul, Weiss, at County expense, to serve in an “of counsel” capacity to the County Attorney in connection with the Chapter 11 bankruptcy petition and the adversary proceeding (the “Adversary Proceeding”) filed by Standard Amusements LLC (“Standard”) in the United States Bankruptcy Court for the Southern District of New York. Your Committee has been advised that, in the Adversary Proceeding, Standard claimed that the County breached the Amended and Restated Playland Management Agreement (the “Management Agreement”). Your Committee has been advised that the County asserted counterclaims for breach against Standard.

Your Committee has been advised that the proposed amendment would increase the authorized not-to-exceed amount of the Agreement (the “NTE Amount”) by Ninety Thousand Dollars (\$90,000.00), from an amount not-to-exceed Five Million Five Hundred Thousand Dollars (\$5,500,000.00) to a new amount not-to-exceed Five Million Five Hundred Ninety Thousand Dollars (\$5,590,000.00), which shall be payable at various hourly rates for various personnel. Your Committee has been advised that the hourly rates to be paid by the County include a previously-obtained additional discount of 5% off of the standard hourly rates from Paul, Weiss, which was in addition to the discount of 15% that was originally provided, meaning

that the total discount from the firm's standard hourly rates is now 20% for pending and future invoices.

Your Committee has also been advised as follows, by the County Attorney, concerning the proposed amendment:

The reason for the requested increase in the NTE Amount is twofold: (1) During the period from February through April 2021, Paul, Weiss partner Elizabeth Sacksteder participated with the County Attorney's Office in multiple meetings before committees of the Board of Legislators to explain and answer questions about the revised Playland Management Agreement. Ms. Sacksteder was also involved in negotiations with Standard Amusements and its investors' counsel over revisions to the Playland Management Agreement requested by the Board of Legislators. This work amounts, through June, to \$69,446.83 in currently-owed fees, of which \$41,476.69 needs to be added to the NTE Amount. (2) The remainder of the increase in the NTE Amount under the proposed amendment will be for the possible need for Paul, Weiss services for the rest of this year.

Your Committee concurs with the conclusion that the proposed amendment does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617. Accordingly, no environmental review is required. Please refer to the memorandum from the Department of Planning dated May 14, 2021, which is on file with the Clerk of the Board of Legislators.

Your Committee has been advised that the adoption of the proposed Act requires an

affirmative vote of a majority of the members of your Honorable Board.

After due consideration, your Committee recommends adoption of the proposed Act.

Dated: _____, 2021

White Plains, New York

COMMITTEE ON

C BDM-091521

FISCAL IMPACT STATEMENT

SUBJECT: Paul Weiss Amendment NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND AIRPORT FUND SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 90,000

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations Other (explain)

Identify Accounts: 101-18-1000-4923

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$ -

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: September 9, 2021

Reviewed By: 
Budget Director

Date: 9/9/21

ACT NO. 2021 - _____

AN ACT authorizing the County to amend an agreement with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, pursuant to which the firm was retained, at County expense, to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with the bankruptcy filing (Case No. 19-23061) by Standard Amusements LLC in the United States Bankruptcy Court for the Southern District of New York, by increasing the authorized not-to-exceed amount of the agreement by \$90,000.00.

BE IT ENACTED by the Board of Legislators of the County of Westchester, as follows:

Section 1. The County of Westchester (the “County”) is hereby authorized to amend an agreement (the “Agreement”) with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), pursuant to which the County retained Paul, Weiss, at County expense, to serve in an “of counsel” capacity to the County Attorney, as needed, in connection with the bankruptcy filing (Case No. 19-23061) by Standard Amusements LLC in the United States Bankruptcy Court for the Southern District of New York, by increasing the authorized not-to-exceed amount of the Agreement by Ninety Thousand Dollars (\$90,000.00), from an amount not-to-exceed Five Million Five Hundred Thousand Dollars (\$5,500,000.00) to a new amount not-to-exceed Five Million Five Hundred Ninety Thousand Dollars (\$5,590,000.00), which shall be payable at various hourly rates for various personnel.

§2. The County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to carry out the purposes of this Act.

§3. This Act shall take effect immediately.