



Law & Major Contracts

BOL Meeting Minutes - Final

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

Committee Chair: Nancy Barr

Monday, January 25, 2021

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations

With a quorum present, Chair Barr called the meeting to order at 10:24 AM.

Pursuant to Governor Andrew Cuomo's Executive Order No. 202.1, "Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency," which temporarily suspends portions of the New York State Open Meetings Law.

A section of the order, "Suspension of law allowing the attendance of meetings telephonically or other similar services," provides for the suspension of "Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such actions authorized by the law without permitting in public in-person access to meetings and authorizing 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."

Others in Attendance: LAW: John Nonna, Jane Hogan-Felix, and Sean Carey BOL: Legislator Catherine Borgia, Legislators (Remote): Margaret Cunzio, Damon Maher, Ruth Walter, Christopher Johnson, Tyrae Woodson-Samuels, David Tubiolo, Alfreda Williams, and Catherine Parker

Present: Legislator Barr, Legislator Alvarado, Legislator Boykin,
Legislator Covill, Legislator Gashi, Legislator Shimsky and
Legislator Smith

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

2021-72 ACT - Enter into Agreement with Tulis & Geiger LLP

AN ACT authorizing the County to retain, at County expense, the law firm of Tulis & Geiger LLP to serve in an "of counsel" capacity to the County Attorney, as needed, in connection with ACME Bus Corp. v. Westchester County Department of Health.

Submitted by COMMITTEES ON BUDGET & APPROPRIATIONS AND LAW & MAJOR CONTRACTS

Guests: County Attorney John Nonna and Assistant County Attorney Jane Hogan-Felix

Senior Assistant Sean Carey discussed the item. He advised that the underlying action is a bankruptcy case in the Eastern District of New York. The Law Department is handling the matter partly in-house, with assistance for motion practice from Tulis & Geiger, a law firm with expertise in bankruptcy. Legislator Barr asked for background on the case. Mr. Carey explained that the County Department of Health had a contract with Acme Bus Corp. for transportation of special needs students. Acme claims that because it was available to transport students but could not because schools were closed by State order due to COVID, the County should be responsible for a portion of Acme's overhead costs during that time. When Acme ultimately transferred the contract to another bus company, the County's agreement with the new company had a provision for such an occurrence, but the original agreement with Acme did not. He noted that Acme has apparently tried to get money from all parties with which it had contracts, and the action against the County is one of 33 adversarial proceedings brought by Acme to try to preserve as many assets as possible. Legislator Barr asked if the County is having issues with other vendors having difficulty due to COVID. Mr. Carey said vendors have sought to modify terms of their agreements on the ground that COVID is a force majeure which warrants modification, but there has not been a global resolution of those matters. Legislator Barr questioned why the not-to-exceed amount was so much lower than what was requested for the Standard Amusements bankruptcy case. Mr. Carey noted that this case is of a much smaller magnitude. Legislator Maher asked the amount of the claim and whether there was a counterclaim or setoff. Mr. Carey said the claim was for about \$191,000, and noted that the County has requested additional time and will discuss counterclaims in the next few weeks.

On motion of Legislator Covill, seconded by Legislator Boykin, the above item was signed by committee to the Board of Legislators committee, due back on 1/25/2021. The motion carried by the following vote:

Aye: Legislator Barr, Legislator Alvarado, Legislator Boykin, Legislator Covill, Legislator Gashi, Legislator Shimsky and Legislator Smith

2021-77 Lawsuit Settlement - Donahoe v. Bee-Line Bus

AN ACT authorizing the County Attorney to settle the lawsuit of George Donahoe v. Bee-Line Bus System, et. al. in the amount of ONE HUNDRED SEVEN THOUSAND, FIVE HUNDRED (\$107,500) DOLLARS, inclusive of attorney's fees (formerly MT # 13132)

Guests: County Attorney John Nonna and Senior Assistant County Attorney Sean Carey

Associate County Attorney Jane Hogan-Felix discussed the settlement. She stated that she wanted to discuss specifics of the settlement in executive session. Mr. Nonna concurred that the discussion should take place in executive session.

With a motion by Legislator Covill seconded by Chairman Boykin, the committee went into executive session at 10:40 a.m. With a motion by Legislator Covill seconded by Legislator Barr, the committee came out of executive session at 10:56 a.m.

On motion of Legislator Barr, seconded by Legislator Covill, the above item was signed by committee to the Board of Legislators committee, due back on 1/25/2021. The motion carried by the following vote:

Aye: Legislator Barr, Legislator Alvarado, Legislator Boykin, Legislator Covill, Legislator Gashi, Legislator Shimsky and Legislator Smith

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

On motion of Legislator Covill, seconded by Legislator Alvarado, the above item was adjourned. The motion carried unanimously.