



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

Monday, February 22, 2021

10:00 AM

Committee Room

CALL TO ORDER

Meeting jointly with the Committee on Law & Major Contracts

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

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: BOL: Kitley Covill, Jill Axelrod, Jason Chervokas, Carolyn Stevens BOL REMOTE: Colin Smith, MaryJane Shimsky, Alessandra Restiano, Melanie Montalto LAW: John Nonna LAW REMOTE: Chris Inzero BUDGET REMOTE: Gideon Grande TOURISM REMOTE: Natasha Caputo NYS SENATE REMOTE: Andy Buder GUEST REMOTE: Constance Kehoe

Present: Legislator Borgia, Legislator Boykin and Legislator Maher

Absent: Legislator Tubiolo

Remote: Legislator Barr, Legislator Cunzio, Legislator Gashi, Legislator Johnson, Legislator Parker, Legislator Walter, Legislator Williams and Legislator Woodson-Samuels

MINUTES APPROVAL

February 17, 2021 10AM Minutes

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

I. ITEMS FOR DISCUSSION

1. [ACT-2021-27](#) **ACT - Amendment to Retainer Agreement**

AN ACT authorizing the County of Westchester to further amend a retainer agreement with the law firm of Sheppard, Mullin, Richter & Hampton LLP, for the provision of outside counsel legal services in connection with the civil matter Yonkers Contracting Company, Inc. v. County of Westchester, et al, by extending the term thereof through December 31, 2021.

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

Joint with LMC

Guests: County Attorney John Nonna & Assistant County Attorney Chris Inzero

Mr. Nonna explained that this case involves a contract with Yonkers Contracting and the County. It was simply an extension of the contract with no additional not to exceed cost. There is still over \$122,000 left in this contract. The reason for the extension is that the contract is set to expire in January. He explained that this is ongoing litigation and the details of the case need to be discussed in executive session. He added that litigation commenced in 2015 and nothing had happened. When he took over in 2018 he realized this was a complex construction case and it required help from outside counsel. This Act is to extend the contract through the end of the year.

With a motion from Legislator Maher and a seconded by Legislator Boykin, the committee entered in to executive session at 11:08 AM.

With a motion from Legislator Boykin and a seconded by Legislator Maher the committee came out of executive session at 11:47 AM.

On motion of Legislator Maher, seconded by Legislator Boykin, the above item was signed by committee. The motion carried unanimously.

2. [ACT-2021-28](#) **ACT - Lawsuit Settlement - County v. IFIC**

AN ACT authorizing the County Attorney to settle an action on behalf of the County of Westchester (the "County") against International Fidelity Insurance Company ("IFIC") for the total amount of \$75,000, regarding breach of an obligation under a payment and performance bond, relating to a breach of an agreement by, and termination of an agreement with, R&S Waste Services, LLC ("R&S"), dated February 16, 2017, for which IFIC is the Surety.

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

Joint with LMC

Guests: County Attorney John Nonna & Assistant County Attorney Chris Inzero

County Attorney John Nonna and Assistant County Attorney Chris Inzero joined the joint committee meeting to discuss the Lawsuit Settlement – County v. IFIC. County Attorney Nonna explained that this is a case against IFIC which is the surety for a company called R&S which became known as R&S Waste Services. R&S was contracted as a solid waste removal company for the County at Westchester Community College and at Westchester County Airport, for international waste. The County terminated their contract with R&S Waste Services because of a judgment against the company in the amount of \$4 million for failure to pay pension funds which is a breach of contract and failure to comply with local State and Federal laws, including labor laws. The County then needed to find replacement haulers which under an emergency contract was greater than the original contract with R&S. Mr. Nonna explained that this is a settlement with surety and that aspects of the settlement will need to be discussed in executive session. He turned the discussion over to Assistant County Attorney Chris Inzero to explain further before entering into executive session.

Mr. Inzero explained that we sued IFIC (International Fidelity Insurance Company) for R&S

Services. IFIC has an indemnity agreement for reimbursement against various members of the Spezio family. Surety sued the County for breach of contract. IFIC's case against R&S and the Spezios still exists. R&S then claimed against the County for breach of contract, and the County moved to dismiss that claim. The County sought recourse from IFIC as surety for R &S, and when IFIC denied coverage, the County brought a lawsuit against them. The matter is pending in the Supreme Court before Judge Jamieson but as it stands now, the claim against the County has been dismissed. The dismissal was granted back in September. The County needed to obtain a replacement hauler under an emergency contract, which was higher than the original agreement which constitutes the County's damages. The original claim was in the amount of \$153,000, the proposed settlement is in the amount of \$75,000. The judge requested them to go to mediation, they had a unsuccessful mediation. At this point it was recommended that the committees go into executive session to discuss legal analysis. Legislator Maher asked what the full amount of the penal sum? Mr. Inzero responded \$469,041.33

With a motion from Legislator Maher and a seconded by Legislator Boykin, the committee entered in to executive session at 10:22 AM.

With a motion from Legislator Maher and a seconded by Legislator Boykin the committee came out of executive session at 10:43 AM.

On motion of Legislator Maher, seconded by Legislator Boykin, the above item was signed by committee. The motion carried unanimously.

3. [RES-2021-32](#) **Resolution in Support of the Commemoration of the 250th Anniversary of our nation**

A RESOLUTION supporting the commemoration of the 250th anniversary of our nation in conjunction with state, regional and local initiatives.

Submitted by: COMMITTEE ON BUDGET & APPROPRIATIONS

Budget only

Guests: NYS Senator Shelley Mayer, Natasha Caputo, Director and Barry Surman, Deputy Director-Westchester County Tourism & Film, Constance Kehoe, Revolutionary Westchester 250

The purpose of this Act was to establish a Commission to provide for the observance and commemoration of the 250th anniversary of the founding of the United States and related events through local, State, national and international activities planned, encouraged, developed and coordinated by a national commission representative of appropriate public and private authorities and organizations. The New York State Legislature in 2020 introduced in the Assembly and in the Senate an act to be known as the "New York state two hundred fiftieth commemoration act", an Act to amend the parks, recreation and historic preservation law by adding a new section to establish a New York state two hundred fiftieth commemoration commission. The Office of the New York State Historian, is supportive of the observance and commemoration of the 250th anniversary, has held regional meetings across the State, and has established the Revolutionary NY250 Working Group, with nearly 50 members from across the state who are sharing information and opinions about the outlines of a New York State approach to the 250th commemoration. The County of Westchester, including the Office of the County Executive, the County Office of Tourism & Film, and the County Board of Legislators, has been working together since 2018 to provide assistance and funding to support efforts to build awareness and support for the Commemoration, specifically cooperating with Revolutionary Westchester 250 Inc., a not-for profit corporation with a mission to help build awareness and excitement for the events, places, ideals and people. Constance Kehoe who serves as the President and Director of Revolutionary Westchester

250, Inc., explained that the not-for-profit is working to build up enthusiasm for the commemoration of the 250th Anniversary of our Nation. She explained that it would be great to have support from the County. Natasha Caputo, Director of Tourism for the County added that they have been working on developing a plan that would give Westchester an opportunity to showcase all of its local history and heritage. Ms. Kehoe discussed that having support from NYS Senator Mayer, who was represented by Andy Buder, is important because of the funding opportunity from the Federal Government. The creation of a State level commitment will put Westchester in a good position to receive Federal funding.

Chair Borgia asked Ms. Caputo, are we seeing this as an opportunity for Westchester? Ms. Caputo stated that yes this is a great opportunity for Westchester to position itself and showcase all the local history as a tourist location and encourage corporate sponsors to partner with the County. They have been promoting events on their website and social media to create interest and bring more awareness to the event.

Legislator Boykin added that this is a wonderful idea and pointed out that Legislator Shimsky added moneys into the CBO budget last year and this year for continued support and promotion.

Legislator Shimsky added that Westchester has a very interesting story to tell. It is full of history. Legislator Barr asked if they are reaching out to educators and local historical societies. Ms. Kehoe responded that they have a website that has all the information on upcoming events and meetings. www.RW250.org Ms. Caputo said she would send links to all the pages.

Chair Borgia added that she feels very fortunate to be a part of a world with so much history. Legislator Shimsky pointed out that on the first page, the park should be "Ward Pound Ridge Reservation". The park name was amended and the resolution was signed out of committee.

On motion of Legislator Borgia, seconded by Legislator Boykin, the above item was signed by committee. The motion carried unanimously.

Absent: Legislator Tubiolo

Remote: Legislator Barr, Legislator Cunzio, Legislator Gashi, Legislator Johnson, Legislator Parker, Legislator Walter, Legislator Williams and Legislator Woodson-Samuels

II. OTHER BUSINESS

III. RECEIVE & FILE

1. [2021-150](#) **CLERK OF THE BOARD - 2020 Westchester County Clerk Annual Report**

Forwarded from the County Clerk, his Annual Report for the fiscal year 2020.

COMMITTEE REFERRAL: COMMITTEE ON BUDGET & APPROPRIATIONS

On motion of Legislator Maher, seconded by Legislator Barr, the above item was received, filed, and approved. The motion carried by the following vote:

Aye: Legislator Borgia, Legislator Barr, Legislator Boykin, Legislator Cunzio, Legislator Gashi, Legislator Johnson, Legislator Maher, Legislator Parker, Legislator Walter, Legislator Williams and Legislator Woodson-Samuels

Absent: Legislator Tubiolo

ADJOURNMENT

Moved by Legislator Maher, seconded by Legislator Boykin, the Committee adjourned at 11:51AM. by the following vote:

Aye: Legislator Borgia, Legislator Barr, Legislator Boykin, Legislator Cunzio, Legislator Gashi, Legislator Johnson, Legislator Maher, Legislator Parker, Legislator Walter, Legislator Williams and Legislator Woodson-Samuels

Absent: Legislator Tubiolo