

Law & Major Contracts

BOL Meeting Minutes - Published Draft



Committee Chair: Damon Maher

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

Monday, January 24, 2022

10:00 AM

Committee Room

CALL TO ORDER

Joint with Budget & Appropriations and Health committees

*The County Board met pursuant to Chapter 417 of New York State Laws of 2021, allowing public bodies to meet and take action without permitting in-person public access to meetings and authorizes such meetings and public hearings to be held remotely by conference call or similar service, provided the public has the ability to view or listen and that such meetings are recorded and later transcribed. To access the meeting, please visit:
<https://westchestercountyny.legistar.com>.*

With a quorum present, Chair Maher called the meeting to order at 10:16 a.m.

Others in attendance: BOL: Legislators: James Nolan and Jewel Williams Johnson; Legislators (Remote): David Tubiolo, Tyrae Woodson-Samuels, and Erika Pierce; Committee Coordinators: Jill Axelrod, James Silverberg, and Dayana Gomez; Melanie Montalto LAW: John Nonna and Loren Zeitler

Present: Committee Chair Maher, Legislator Barr and Legislator Gashi

Remote: Legislator Borgia, Legislator Parker, Legislator Shimsky and Legislator Smith

MINUTES APPROVAL

Present: Committee Chair Maher, Legislator Barr and Legislator Gashi

Remote: Legislator Borgia, Legislator Parker, Legislator Shimsky and Legislator Smith

November 29th at 10:00 a.m. minutes

On motion of Legislator Gashi, seconded by Legislator Shimsky, the minutes were approved. The motion carried by the following vote:

Aye: Committee Chair Maher, Legislator Barr, Legislator Borgia, Legislator Gashi, Legislator Parker, Legislator Shimsky and Legislator Smith

I. ITEMS FOR DISCUSSION

Organizational meeting for the 2022-2023 term.

- *Set a meeting quorum.*
- *Set a voting quorum.*
- *Select a Committee Vice-Chair*
- *Set meeting day and time.*

With a motion by Legislator Gashi, seconded by Legislator Shimsky, the meeting quorum was set at 2 members; the voting quorum was set at 4 members; Legislator Gashi was selected as Vice-Chair; and the meeting day and time was set for Wednesday at 9:30 a.m. The motion was approved unanimously.

1. [ACT-2022-3](#) **ACT - Opioid (Allergan) Settlement**

Guests: County Attorney John Nonna and Senior Assistant County Attorney Loren Zeitler

Mr. Nonna advised that they have a deadline of February 4th to decide if the County is going to participate in the settlement to get a share of the proceeds. He noted that this is the third settlement before the Board, the other two were for New York cases against Johnson & Johnson and the three major distributors of opioids. Ms. Zeitler advised that the matter was settled on December 9th, 2021, right before closing arguments. Allergan agreed to pay \$200 million. The County will receive \$1.841 million in mid-2022 as a one-time payment. Legislator Maher asked if there is any significant difference between this settlement and the two previously approved other than the length of time for the payout. Ms. Zeitler said in this case, the counties are getting a larger percentage of the settlements. Legislator Maher asked if the injunctive relief prevents marketing efforts, including incentives to sales force. Ms. Zeitler said it does for the next 10 years.

Legislator Maher asked if the same three parties (Nassau, Suffolk and New York State) negotiated this settlement as well as the previous settlement. Ms. Zeitler said yes, that Nassau and Suffolk counties who were the bellweather plaintiffs, so they get money separate from this. He asked if attorneys' fees are a separate item, and Ms. Zeitler said that comes from a separate fund.

Legislator Maher asked what the resolutions are against other defendants. Ms. Zeitler said Teva, the last defendant in the New York case, was found liable last month and a damages trial will be proceeding. They have appealed the liability issue. Mr. Nonna said the Purdue settlement is also pending appeal.

Legislator Shimsky asked if there is any foreseeable risk that any of this could be complicated by bankruptcy proceedings. Mr. Nonna said no because if the companies settling were at risk of going into bankruptcy, they would have declared bankruptcy to avoid these payments.

Legislator Shimsky asked if the public nuisance theory of liability was used here. Mr. Nonna said it was, and that is why Teva was found liable. Legislator Shimsky noted that some states have found that public nuisance theory is not applicable, and asked if accepting the settlement shields us from the uncertainties about the future. Mr. Nonna said yes, and noted that it is a state law issue, so what happens in New York might not necessarily apply to what happens in another state.

On motion of Legislator Barr, seconded by Legislator Smith, the above item was signed by committee. The motion carried by the following vote:

Aye: Committee Chair Maher, Legislator Barr, Legislator Borgia, Legislator Gashi, Legislator Parker, Legislator Shimsky and Legislator Smith

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Barr, seconded by Legislator Parker, the Committee adjourned at 10:51

a.m. by the following vote:

Aye: Committee Chair Maher, Legislator Barr, Legislator Borgia, Legislator Gashi, Legislator Parker, Legislator Shimsky and Legislator Smith

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