

Law & Major Contracts

BOL Meeting Minutes - Published Draft



Committee Chair: David Imamura

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

Monday, May 6, 2024

10:00 AM

Committee Room

CALL TO ORDER

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.

Joint with Budget & Appropriations committee.

Legislator Colin Smith will be participating remotely from 132 Main Street, Suite 1, Peekskill, NY 10566.

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

Others in Attendance: BOL: Legislators; Jewel Williams Johnson, Erika Pierce, and Judah Holstein; Legislators (Remote): Shanae Williams, Jose Alvarado, and Catherine Parker; Committee Coordinators: Jill Axelrod, James Silverberg, Dayana Gomez, and Shatika Parker; Lisa Hochman, and Greg Casciato; GUESTS: Law Dept.: John Nonna, Justin Adin, and Chris Inzero; Ira Schulman

Present: Legislator Imamura, Legislator Woodson-Samuels, Legislator Barr and Legislator Gashi

Absent: Legislator Ulaj

Remote: Legislator Smith

MINUTES APPROVAL

Monday, April 29, 2024

On motion of Legislator Barr, seconded by Legislator Woodson-Samuels, the minutes were approved. The motion carried by the following vote:

Aye: Legislator Imamura, Legislator Woodson-Samuels, Legislator Barr, Legislator Smith and Legislator Gashi

Absent: Legislator Ulaj

I. ITEMS FOR DISCUSSION

1. [ACT-2024-87](#) ACT-Approval for Payment of Legal Services-Lewis

Guests: Law Dept.: County Attorney John Nonna and Chief Deputy County Attorney Stacey Dolgin-Kmetz

Mr. Nonna explained that Mr. Lewis was appointed as Special District Attorney because of a conflict of interest for the District Attorney. He said that this will authorize payment of an invoice from Mr. Lewis for \$7515, as well as enable future payment for Mr. Lewis as he continues his work since this is an ongoing matter. To expedite payment, the District Attorney has requested that a "not-to-exceed" amount of \$35,000 be set, so that payments can be processed once approved by the court without the need to present each invoice individually for action by the BOL.

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

Aye: Legislator Imamura, Legislator Woodson-Samuels, Legislator Barr, Legislator Smith and Legislator Gashi

Absent: Legislator Ulaj

2. [ACT-2024-82](#) **ACT - Custom Marine Agreement**

Guests: Law Dept.: Chris Inzero, Assistant County Attorney; Sheppard Mullin: Ira Schulman, Partner

Mr. Inzero and Mr. Shulman discussed the item with the committee. Mr. Inzero said that the legislation would authorize the County to enter into an agreement with Endurance Insurance Company as surety for Custom Marine and with Mace Contracting, whereby Endurance will provide Mace's service to the County to complete the remaining work under the contract for bulkhead rehabilitation at the Yonkers Joint Wastewater Treatment Plant.

He explained that the contract required Custom to make a good faith effort to have 20% of the work performed by a Minority or Women-owned Business Enterprise. Custom defaulted on the contract by not only failing to do so, but misrepresenting to the County that it had done so. The County demanded that Endurance, as surety, complete the remaining work, and Endurance proposes Mace Contracting as the replacement contractor at the remaining contract price.

Mr. Shulman noted that this agreement will allow the remaining work to be completed with no additional cost to the County.

With a motion by Legislator Woodson Samuels seconded by Legislator Barr, the committee went into executive session to discuss legal strategy at 10:25 a.m. With a motion by Legislator Woodson Samuels seconded by Legislator Barr, the committee came out of executive session at 10:48 a.m.

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

Aye: Legislator Imamura, Legislator Woodson-Samuels, Legislator Barr, Legislator Smith and Legislator Gashi

Absent: Legislator Ulaj

3. [ACT-2024-88](#) **ACT - Proceeding Settlement - Migi Asset Acquisition, LLC.**

Guest: Law Dept.: Justin Adin, Chief Deputy County Attorney

Mr. Adin and Leonard Gruenfeld from the County Planning Department discussed the item with the committee. Mr. Adin said that Migi Asset Acquisition failed to complete construction of 14 units of affordable housing, as required by two contracts whereby the County had provided approximately \$2.6 million in subsidy funds - \$1.8 million by purchasing the property and reselling to Migi for \$1, and \$788,533.12 through reimbursement of construction costs. The contracts, as extended by the County, required completion of the units by June 30, 2020, but the units remain incomplete.

The County brought litigation against Migi, but Migi filed for bankruptcy in February 2023, which stayed further action in the County's lawsuit. In October 2023, the bankruptcy petition was dismissed, and the County's lawsuit recommenced. The parties have since completed most discovery, and engaged in Court-mediated settlement negotiations.

Mr. Adin said that Migi recently accepted an offer from Lifting Up Westchester to purchase the property for \$2.1 million, although they have not yet entered into a contract. Pursuant to the proposed settlement agreement between Migi and the County, Migi will be required to sell the property to Lifting Up Westchester by July 1, 2024, pay all outstanding property taxes, and pay the County \$26,000. This agreement is contingent on Migi working out a deal with its mortgage company, which holds a mortgage of at least \$2.9 million. If Migi is unable to close on the sale for any reason, including a failure to work out a deal with its lender, the settlement would be voided and the litigation would recommence.

With a motion by Legislator Woodson Samuels seconded by Legislator Barr, the committee went into executive session to discuss legal strategy at 11:00 a.m. With a motion by Legislator Barr seconded by Chairman Gashi, the committee came out of executive session at 11:27 a.m.

On motion of Legislator Gashi, seconded by Legislator Woodson-Samuels, the above item was signed by committee and referred to Board of Legislators. The motion carried by the following vote:

Aye: Legislator Imamura, Legislator Woodson-Samuels, Legislator Barr, Legislator Smith and Legislator Gashi

Absent: Legislator Ulaj

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Woodson-Samuels, seconded by Legislator Gashi, the Committee adjourned at 11:32 a.m. by the following vote:

Aye: Legislator Imamura, Legislator Woodson-Samuels, Legislator Barr, Legislator Smith and Legislator Gashi

Absent: Legislator Ulaj

DRAFT