

Appendix to the Report of the Westchester County Charter Revision Commission

December 5, 2013

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Legislation Establishing the Commission

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of an Act regarding the creation of the Westchester County Charter Revision Commission.

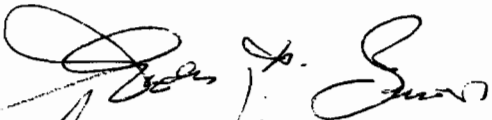
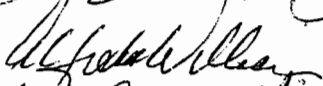
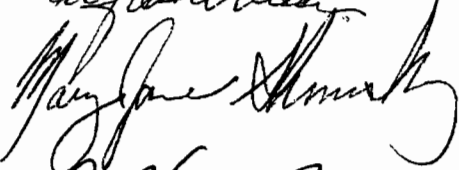

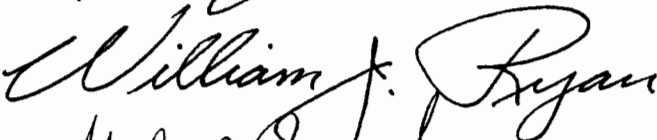




Your Committee believes that governments at every level – federal, state, county and local – need to work smarter, and become more efficient and less expensive. Westchester County government should lead by example and be a model for other units of government to follow. Your Committee believes that the creation of the Westchester County Charter Revision Commission is a first step towards achieving this objective.

The proposed Act, if adopted, would establish a Westchester County Charter Revision Commission for the years 2011-2012 to study, review and recommend changes to the Westchester County Charter and Administrative Code. The Commission is to be composed of a total of twenty-three (23) voting members, which appointments are to be made on or before April 30, 2011. Once constituted, the Commission shall study Westchester County operations and consider Westchester County's relations with the various cities, towns and villages within the County, including any amendments which would facilitate the delivery of services to the public and better coordinate the administration of such services. Finally, the Westchester County Charter Revision Commission is to submit a final report on or before April 30, 2012.

Your Committee notes that the work of the Westchester County Charter Revision Commission would be an ideal way for people to become knowledgeable about the operations and responsibilities of county government and involved in the decision-making process.

In light of the aforementioned, your Committee recommends the adoption of the proposed Act.

Dated: March 14, 2011
White Plains, New York

COMMITTEE ON Legislation

ACT NO. 34 - 2011

AN ACT to reestablish and
restructure the Westchester
County Charter Revision
Commission.

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

Section 1. ESTABLISHMENT: There is hereby established a Westchester County Charter Revision Commission ("Commission") for the years 2011-2012 to study, review and recommend changes to the Westchester County Charter and Administrative Code.

Section 2. MEMBERSHIP: The Commission shall be composed of a total of twenty-three (23) voting members to be appointed as follows:

(a) Each County Legislator from the seventeen (17) legislative districts shall individually appoint one (1) member to the Commission.

(b) The County Executive of the County of Westchester shall appoint six (6) members to the Commission.

(c) All appointments shall be made on or before April 30, 2011.

(d) No voting member to the Commission shall be an employee of Westchester County or an elected official.

(e) After all 23 voting members are appointed, the Commission shall select, by majority vote, a Chairperson, a Vice Chairperson and a Secretary from among its voting members.

(f) The term of membership shall expire upon the termination of the Commission.

Section 3. SERVICE WITHOUT COMPENSATION: The members of the commission shall not be entitled to compensation but shall be entitled to reimbursement for reasonable and necessary expenses incurred in the performance of his or her duties as a member.

Section 4. RESOURCES: The County shall provide the Commission with adequate resources incident to the discharge of the Commission's responsibilities as may be deemed necessary by the County Board of Legislators in the furtherance of the Commission's assigned duties, including but not limited to, entering into a contract for consulting services.

Section 5. DUTIES; RESPONSIBILITIES. The Commission shall:

(a) Study the operations of the County of Westchester in their full scope;

(b) Consider the inter-municipal relations between the County of Westchester and various cities towns and villages within the County;

(c) Review the myriad responsibilities that the County of Westchester discharges in the course of its broadly defined duties;

(d) Determine whether the Westchester County Charter and the Westchester County Administrative Code shall be amended so as to create a more effective and efficient framework for County government;

(e) Recommend such amendments as may be necessary to facilitate the delivery of services to the public and to better coordinate the functions between departments and agencies of the County and the various cities, towns and villages within the County; and

(f) Submit a final report, which shall include the Commission's findings, conclusions, and recommendations for appropriate action to the County Board of Legislators and the County Executive on or before April 30, 2012.

Section 6. REQUIRED LEGISLATIVE ACTION. The County Board of Legislators shall act on all recommendations submitted by the Commission within six (6) months from the date of the submission of the Commission's final report.

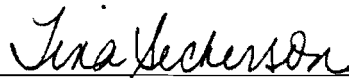
Section 7. TERMINATION OF THE COMMISSION. The Commission shall expire on June 30, 2012, unless otherwise extended by separate Act of the County Board of Legislators.

Section 8. EFFECTIVE DATE. This Act shall become effective immediately.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 34 - 2011, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on March 14, 2011, and approved by the County Executive on March 24, 2011.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 25th day of March, 2011.



Tina Seckerson

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York



Legislation Extending the Term of the Commission

ACT 18 - 2012

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of an Act to amend Act No. 34-2011 to extend the term of the Westchester County Charter Revision Commission.

Your Committee is informed that the Westchester County Charter Revision Commission ("Commission") was created by Act No. 34-2011. The legislation creating the 23 member Commission required that amongst its duties and responsibilities, the Commission issue a final report of its findings, conclusions, and recommendations to the County Board and the County Executive on or before April 30, 2012. In addition, the legislation mandated that the Commission be terminated on June 30, 2012, unless otherwise extended by separate Act of the County Board of Legislators. The proposed Act, if adopted, would extend the term of the Commission until December 31, 2013 with a Final Report due on or before December 15, 2013.

Your Committee is informed that although the Act creating the Commission was approved on March 14, 2011, the first official meeting of the Commission was not held until June 15, 2011, immediately prior to the summer vacation period, a time of the year when most of the Commission's 23 appointed citizen members were not readily available to attend meetings.

Your Committee is further informed that the 23 citizen members of the Commission are certainly not experts on the County Charter, the Administrative Code, nor the daily operations and responsibilities of the numerous departments of the county government. It will therefore take time for the members to properly educate themselves in order to fulfill the mandates of the establishing legislation in a responsible manner.

The Commission has organized itself into four major Focus Groups and is now in the early stages of gathering information, interviewing relevant parties, and learning the details of the county's complex operations. The members have already demonstrated a dedication and seriousness of effort to the tasks ahead. The Commission will endeavor to regularly provide interim reports of its progress to this Honorable Board and the County Executive as may be deemed appropriate.

Your Committee agrees that the work of the Commission is complex and cannot possibly be accomplished by June 30, 2012 as mandated in Act No. 34-2011. Your Committee believes that extending the term of the Commission until December 31, 2013 with a Final Report due on or before December 15, 2013 will enable the Commission to properly carry out its mandated duties.

In light of the aforementioned, your Committee recommends the adoption of the proposed Act.

Dated: March 17, 2012
White Plains, New York

William J. Ryan
[Signature]

Stella J. [Signature]

Jim [Signature]

COMMITTEE ON LEGISLATION

[Signature]
[Signature]

ACT NO. 18 -2012

AN ACT to amend Act No.
34-2011 to extend the term of
the Westchester County
Charter Revision
Commission.

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

Section 1. Act No. 34-2011 of the Laws of Westchester County is hereby amended as follows:

Section 1. ESTABLISHMENT: There is hereby established a Westchester County Charter Revision Commission ("Commission") for the years 2011-201[2]3 to study, review and recommend changes to the Westchester County Charter and Administrative Code.

Section 5. DUTIES; RESPONSIBILITIES. The Commission shall:

(f) Submit a final report, which shall include the Commission's findings, conclusions, and recommendations for appropriate action to the County Board of Legislators and the County Executive on or before [April 30, 2012] December 15, 2013.

Section 7. TERMINATION OF THE COMMISSION. The Commission shall expire on [June 30, 2012] December 31, 2013, unless otherwise extended by separate Act of the County Board of Legislators.

§2. This Act shall become effective immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Act to amend Act No. 34-2011

☒ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) ☐ GENERAL FUND ☐ AIRPORT ☐ SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0

Source of Funds (check one): ☐ Current Appropriations

☐ Transfer of Existing Appropriations ☐ Additional Appropriations ☐ Other (explain)

Identify Accounts: AN ACT to amend Act No. 34-2011 to extend the term of the Westchester County

Charter Revision Commission until December 31, 2013 with a Final Report due on or before December 15, 2013.

Potential Related Operating Budget Expenses: Annual Amount \$ 0

Describe: _____

Potential Related Revenues: Annual Amount \$ 0

Describe: _____

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

Current Year: 0

Next Four years: 0

Prepared by: Patricia Haggerty

Reviewed By: _____

Title: Sr. Budget Analyst

Budget Director

Department: Budget

If you need more space, please attach additional sheets.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 18 - 2012, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on March 26, 2012, and approved by the County Executive on April 6, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 10th day of April, 2012.



Tina Seckerson

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York



Meeting Schedule

Westchester County Charter Revision Commission

Meetings

June 15, 2011	June 28, 2012	April 27, 2013
July 13, 2011	September 27, 2012	May 9, 2013
September 27, 2011	October 25, 2012	June 6, 2013
October 26, 2011	November 29, 2012	June 20, 2013
November 21, 2011	December 20, 2012	September 12, 2013
January 25, 2012	January 10, 2013	September 21, 2013
February 23, 2012	January 24, 2013	September 24, 2013
March 22, 2012	February 7, 2013	October 24, 2013
March 29, 2012	March 7, 2013	November 20, 2013
April 23, 2012	March 21, 2013	December 5, 2013
May 24, 2012	April 4, 2013	

Agendas & Minutes

June 15, 2011

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order and Introductions**
- 2. Opening Statements by Chair of the Board of Legislators Ken Jenkins, Legislator William Ryan and Legislator John Nonna, Chief of Staff to the County Executive George Oros**
- 3. Mission of Commission and Time Limits (Act establishing Commission) (Legislator William Ryan)**
- 4. Election of Officers (Chair, Vice-Chair, Secretary, staff assistance)**
- 5. Organization issues (frequency and location of Commission meetings) (Chair)**
- 6. History and structure of Westchester County government and County Charter, (Stacey Dolgin-Kmetz, Legislative Advisor)**
- 7. Other New Business**
- 8. Set next meeting**
- 9. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

JUNE 15, 2011

Members in Attendance: Randy Sellier, Anne McAndrews, Jane Morgenstern, Gary Zuckerman, Derickson Lawrence, Alfred Gatta, Florence McCue, Richard Wishnie, Herman Geist, Paul Windels, Vincenza Restiano, Raymond Belair, Guy Parisi, David Menken, Stephen Mayo, Jeff Binder, Matt Thomas, Ron Volino.

Guests in Attendance: Mindy Aronowitz, Don Hughes, Savina Trangle, Janet Zagoria, Michael Amodio.

Legislators in Attendance: Ken Jenkins, Bill Ryan, John Nonna

County Staff in Attendance: Robert Alberty, Katy Delgado, Justin Adin, Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

MINUTES

The meeting was called to order at 7:05 PM.

The Chairman of the Board of Legislators made opening and introductory remarks.

The Commission Members introduced themselves.

Legislator Bill Ryan, the sponsor of the bill that created the Commission, gave an overview of the creation of the Commission. He provided the tasks at hand to review the County Charter and make recommendations to the County on how the County can be better and more efficiently run and operated. He told the Commission that they are independent from the County and should make their decisions based on their review. He discussed possibly streamlining or expanding. He said that the Commission will see and consider the role the state plays with mandated programs and what changes may need to be made on a state level as well.

Legislator John Nonna, Chair of the Legislation Committee spoke to the Commission about the history of the decision to create the Commission. He said it has been over twenty years since the charter has been examined and so the mandates that we put in the legislation are very broad to allow the Commission to explore every option. He discussed the guide in everyone's packet which shows what can and cannot be done.

George Oros, Chief of Staff to the County Executive welcomed everyone and stated that the Administration will work closely with the legislature as well as the Commission to provide the resources needed to get the work done. He said that the County Executive's

staff and Commissioners are available to assist the Commission when needed. He briefly explained the problems that residents of Westchester are or may be facing today.

Legislator Ryan went over the legislation that created the Commission. He then introduced the agenda item for the evening to select a Chairman and Vice Chairman. The Commission discussed this issue amongst its members and agreed that because many of them are meeting for the first time this evening, they would like to wait to elect the Chair and Vice Chair, however an interim Chair is needed until a process can be put in place. Mr. Zuckerman nominated Richard Wishnie as the interim Chair.

With a motion by Mr. Menken and seconded by Mr. Zuckerman, Mr. Wishnie was made the Interim Chair with a vote of 17-0.

Mr. Wishnie stated that anyone who wishes to be the chair, vice-chair or secretary, should submit their resume to Ms. Montalto and we can then circulate them for a decision at a future date. It was suggested that the Commission members be given identification cards to have access to the county building and parking lot.

The Commission discussed how often they will meet going forward. Mr. Gatta stated that the deadline for the report is not realistic and we will probably need an extension. He stated that we have to figure out how much we want to bite off. He said we will need to meet once to twice a month. Mr. Mayo agreed stating that we will need to identify at least two days a month to meet. Mr. Zuckerman suggested that a committee structure is needed to properly take on the task at hand, and that the committees should meet more often and the whole group should meet once a month. Mr. Wishnie stated that the Commission will receive a copy of the 1988 Commission report which shows the committees that they chose to use as a system to get the work done.

Mr. Binder asked how the public will be kept informed about the Commission's proceedings and is the County going to help the Commission connect with the media. Ms. Dolgin-Kmetz explained that the meeting is being live streamed on the Board of Legislators website and it will be archived so the public can watch at any time. It was also explained that a website can be linked to the county page and created for the Commission. Mr. Sellier stated that some point he would like to have public forums where residents can provide their opinion as well.

A discussion ensued regarding the different sections of the legislation. The Commission agreed that they will find a way to work within the scope of the legislation. Mr. Wishnie stated that we will meet again one month from now and availability will be organized with the Commission staff.

Stacey Dolgin-Kmetz, Counsel to the Board of Legislators gave a PowerPoint presentation of the history and structure of Westchester County government and the structure of counties in New York. A copy of the presentation is on file and available for review.

The Commission requested a copy of the presentation, the 1988 Commission Report, Westchester 2000, and a summary of the various areas that are off limits and areas that can be looked at. It was also requested that the link to the online charter be made available as well.

The Commission discussed the process the Board of Legislators will follow after the report is issued.

Mr. Menken suggested that everyone looked at the County Planning Department's website for Westchester 2025. He stated it is full of interesting information that could be helpful.

Mr. Zuckerman asked that at the next meeting the Board of Legislators and the County Executive's Office speak to the Commission about their specific concerns that helped bring about enacting this Commission so the members will have a place to start from.

With a motion by Mr. Zuckerman, seconded by Mr. Wishnie the Westchester County Charter Revision Commission adjourned at 8:32 pm.

CHARTER REVISION COMMISSION

July 13, 2011

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) Approval of minutes of June 15, 2011**
- 2) Presentations by the Board of Legislators and County Executive stating their Charter concerns**
- 3) Presentation on how to navigate the online County Charter**
- 4) Review of the findings of the 1988 Charter Revision Commission Report**
- 5) Discussion of organizational structure**
 - **Setting a quorum**
 - **Setting a standing meeting date**
 - **Determining rules of the Commission**
- 9. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

JULY 13, 2011

Members in Attendance: Richard Wishnie, Herman Geist, Julie Killian, John Mattis, Matthew Thomas, Gary Zuckerman, Jeff Binder, Sam Zerka, Ronald Volino, Ann McAndrews, Vincenza Restiano, Raymond Belair, Anita Delgado, Florence McCue, Guy Parisi, Jane Morgenstern, Paul Meissner, Derickson Lawrence, Steve Mayo

Guests in Attendance: Dominica O'Neill

Legislators in Attendance: Ken Jenkins

County Staff in Attendance: George Oros, Jim Castro-Blanco, Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

MINUTES

The meeting was called to order at 7:07 PM.

With a motion by Jane Morgenstern and seconded by Gary Zuckerman the minutes of June 15, 2011 were approved with a vote of 16-0.

George Oros, Chief of Staff to the County Executive presented the County Executive's response to the Commission's request for concerns regarding the Charter. He stated that while the Commission is independent to look at the entire charter, there are three areas that the County Executive has identified that the Commission could look for. The three areas are: redundancies and duplications in charter, outdated language and processes, and consolidation of services. Mr. Oros provided a letter to the Commission which is on file and available for review.

Ken Jenkins, Chairman of the Board of Legislators presented the Board's response to the Commission's request for concerns regarding the Charter. He presented a letter to the Commission referring to the ACT passed creating the Commission and stated that the Board does not want to make any further suggestions to the Commission to ensure that the Commission remains independent and inspects the charter freely. He stated that the Commission was created for no other reason than a routine check as many counties do every ten years. A copy of the letter is on file and available for review.

Interim Chairman Wishnie stated that in the near future we will have presentations from all of the department commissioners in the county and take tours of the facilities so the Commission can become familiar with the county government.

Mr. Binder asked about a public relations operation for the Commission. Chairman Jenkins stated that we are already discussing building a website with the Administration and will provide any PR the Commission needs. Mr. Binder asked if we can send out a press release stating the Commission's meeting schedule so that the press can be aware of the meetings. Mr. Wishnie stated that once a schedule is set we can do that.

Chris Crane of the Board of Legislators showed the Commission how to access and navigate the county charter online. The Commission discussed areas of concern over the organization of the charter and its need to be more user-friendly for the public. A discussion ensued regarding how changes to the charter are made and if there will be resistance to changes the Commission proposes.

Stacey Dolgin-Kmetz and Chris Crane of the County Board of Legislators presented the recommendations of the 1988 Charter Revision Commission and which ones were enacted and which were not. Mr. Crane stated that while there were not many charter and code changes there were policy practice changes. A copy of the recommendations and implementations are on file and available for review.

Interim-Chairman Wishnie began discussing organization of the Commission by asking for a day each month that everyone is available. The Commission circulated a calendar to show when people are available and agreed not to meet in August.

The Commission discussed how many members would be required to set a quorum. Mr. Belair suggested 15 members. The Commissioner agreed, the quorum is set at 15 members.

Interim-Chairman Wishnie asked that anyone who is interested in serving as the Chair, Vice Chair, or Secretary submit their resume to Commission staff and they will be distributed the Commission prior to the September meeting for a vote at that time. Mr. Parisi stated that he hopes the Interim-Chair is considering staying on as Chair. Mr. Wishnie said that he is interested in remaining the Chair. Ms. Restiano said she would like to motion to make Mr. Wishnie the Chairman right now.

Moved by Ms. Restiano and seconded by Dr. Volino, Richard Wishnie was appointed as the Chair of the Westchester County Charter Revision Commission with a vote of 19-0.

Chairman Wishnie suggested 5 focus groups to begin doing the work of the Commission. The focus groups are:

- 1) Steering Committee
- 2) Executive/Legislative Relationship
- 3) Budget, Finance & Contracts
- 4) Charter & Code Issues
- 5) County/Local Government Relationship

Mr. Parisi stated that he thinks it may be too soon to break into groups and we need more of an overview. Ms. Killian stated that she thinks is a good starting point and if we need

to we can add to it later. Chairman Wishnie asked that everyone email him with their thoughts on which focus groups they would like to be on.

Mr. Wishnie discussed the lack of diversity on the Commission and stated that we need to get more people who represent the whole face of the County involved. Ms. Killian suggested that this be added to the press release that goes out stating the meetings of the Commission and its makeup.

Mr. Binder asked about focus group number 5, County/Local Government Relationships. Chairman Wishnie used the consolidation of the Ossining Police Department with the County Police as an example and said there are many opportunities like that for us to find in the Charter.

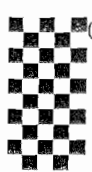
Ms. Delgado stated that she works closely with the Hispanic community and she can reach out to them to help get them involved.

Mr. Lawrence suggested that we add an education focus group. Ms. McCue stated that the state and federal government as well as the local school districts are responsible for funding and regulating public education and the County has no jurisdiction with regard to school funding.

Mr. Castro-Blanco offered to work with Pace Law School to set up 2 interns to help the Commission in time for the fall semester. Mr. Binder suggested that we reach out to the New York State Association of Counties to get expertise on how other counties operate.

Chairman Wishnie reviewed the calendar that was sent around and stated that no one present has a conflict with the fourth week of the month, so a date in the fourth week of the month will be selected and emailed to everyone soon.

With a motion by Mr. Parisi, seconded by Ms. McCue the Westchester County Charter Revision Commission adjourned at 8:43 pm.



Westchester
gov.com

Robert P. Astorino
County Executive

Dear Members of the Charter Revision Commission:

I want to thank you once again for participating in this important endeavor. The formation of this version of the Charter Revision Commission cannot have come, in my view, at a better time. These are days when municipal governments all over New York State are struggling to meet the needs of their residents while maintaining a fiscally sustainable path that protects the overburdened taxpayer. You are in a position to reexamine, rethink and potentially reinvent the way Westchester County works for its people. As County Executive, my administration has been focused on delivering essential services while ensuring that we stay on a path toward losing the distinction of being the highest taxed county in America.

As you begin to take on the tedious task of reading through the County Charter and Administrative Code, you have asked me to identify areas where I think the commission should place some of its focus. Below are some general thoughts and concepts that I would like to share with you as you work toward a report that will provide recommendations to me and the Board of Legislators:

- **Eliminating Redundancies and Duplication of Effort**—Streamlining the way government operates not only increases productivity, it also means saving money. As you begin to peruse the Code and talk to Commissioners, you will no doubt encounter areas where county government can simplify the way it operates—and serves—the residents of the county.
- **Updating Outdated Language and Processes**—Many things have changed since the last Charter Revision Commission report in 1988. This is especially evident in the way technology has revolutionized the way we communicate not only internally, but with the residents we serve.
- **Examining Opportunities for Consolidation**—This is one broad concept that deserves a thorough investigation by the commission. Identifying where two or more entities (or functions) within the government structure may be more effective if combined is critical to the long term sustainability of affordable government.

Office of the County Executive

Michaelian Office Building
White Plains, New York 10601

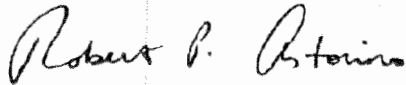
Telephone: (914) 995-2900

E-mail: ce@westchestergov.com

Again, these are just some of the big areas where I believe the most impactful suggestions may flow from. Throughout the course of your study my administration may, from time to time, have some more specific thoughts to share with you. However, it is my belief that you should follow a path of inquiry that is free of preconceptions and full of possibilities.

I am looking forward to seeing where that path leads.

Sincerely,

A handwritten signature in cursive script that reads "Robert P. Astorino". The signature is written in dark ink and is positioned above the printed name.

Robert P. Astorino
County Executive

RPA/ra/pel



Ken Jenkins

Chairman of the Board
Legislator, 16th District

July 13, 2011

Richard Wishnie
Temporary Chair, Charter Revision Commission
Michaelian Office Building
148 Martine Avenue
White Plains, N.Y. 10601

Mr. Wishnie:

I am responding to the memorandum of June 16, 2011 on behalf of the Charter Revision Commission seeking specific issues that the County Board would like considered in your deliberations.

To address your letter, I convened a Committee of the Whole July 6, 2011 to discuss specific issues, if any, that the County Board would want included in the study. It was the consensus of the County Board that the Commission be directed to the duties and responsibilities described in Section 5 of Act 2011-34 – Westchester County Charter Revision Commission. I have attached Act 2011-34 for the convenience of the Commission members.

Members of the County Board wanted to expressly state to the Commission that it is independent and the County Board did not want to influence any recommendations that emulate from your deliberations. The County Board has a fiduciary responsibility and the ability to consider and adopt Charter modifications at any time. The Charter Revision Commission provides citizens the opportunity to review its County government.

County Board members did indicate that each Commission member was given a copy of the report of the last charter revision commission which could serve as a starting point for the type of issues that the Charter Commission could review.

The County Board thanks the Commission for your request; however, the County Board respectfully declines to provide specific issues to be addressed in the study.

Sincerely,


Kenneth W. Jenkins
Chair, Westchester County Board of Legislators

CHARTER REVISION COMMISSION

September 27, 2011

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of July 13, 2011; September 22, 2011
(Department of Public Safety tour)**
- 2) **Presentations by the Commissioner of the Finance Department
and the Budget Director**
- 3) **Recap of the tour of the Departments of Public Safety &
Emergency Services**
- 4) **Election of the Vice Chair & Secretary**
- 5) **Discussion of appointments to Committees**
- 6) **The next meeting will be on Wednesday October 26, 2011**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

SEPTEMBER 27, 2011

Members in Attendance: Richard Wishnie, Herman Geist, Julie Killian, John Mattis, Matthew Thomas, Gary Zuckerman, Jeff Binder, Paul Windels, Ronald Volino, Anne McAndrews, Vincenza Restiano, Raymond Belair, Anita Delgado, Florence McCue, Guy Parisi, Jane Morgenstern, Paul Meissner, Derickson Lawrence, Steve Mayo, Bertrand Sellier, David Menken

Absent Members: Sam Zherka, Al Gatta

County Staff in Attendance: George Oros, Katy Delgado, Bill Mooney, Rob Alberti, Ann Marie Berg, Larry Soule, Jim Castro-Blanco, Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order at 7:16 PM.

With a motion by Florence McCue and seconded by Gary Zuckerman the minutes of July 13, 2011 were approved with a vote of 21-0.

With a motion by Paul Windels and seconded by Gary Zuckerman the minutes of the September 22, 2011 facility tour were approved with a vote of 21-0.

Ann Marie Berg, Director of the Finance Department gave an overview of her Department and the work involved in managing the County finances. She stated that she has 49 employees. Ms. Berg explained to the Commission that the County currently has \$900 million in outstanding bonds. \$48 million was refunded in August giving us a net savings of \$2.1 million for next year.

Ms. Berg stated that the bond series slated for the end of the year is approximately \$200 million. She said \$100 million is short term which was converted into long term, \$75 million for new projects, and \$22 million sought through legislation for the early retirement incentive at a lower rate than the state was offering.

A discussion ensued regarding tax assessments and the details of where the County's money is kept.

Larry Soule, Director of the Budget Department provided a description of the work of the Department and explained his role as being equally responsible to the County Executive and the Board of Legislators. He stated that the County has a \$1.786 billion budget with

4,300 employees in the operating budget. He stated that the Budget Department begins balancing the budget for the following year on the first day each year. He described state and federal mandates, how some are funded, some partially funded where we receive 70 cents on each dollar, and some which are not funded at all. He stated that the Budget Department has 12 employees, and together they prepare the county, water and sewer districts, airport, community college, and capital projects budgets.

Mr. Soule explained that the budget is a year long process. He said the capital budget requests for the following year are due by May 1st from all of the departments, operating budget requests are due by September 1st, the budget is submitted to the Board of Legislators November 15th, and revisions to the budget and additions by the Board of Legislators are released to the public on December 1st. The final budget must be approved by December 27th. A discussion ensued regarding the budget process, additions and deletions, and the public hearings.

The Commission discussed the possibility of an independent controller facilitating the budget process and agreed to discuss it again in the future.

Mr. Soule explained that we receive 70 cents for each dollar spent in Social Services back from State and Federal aid, however our Medicaid obligation is \$220 million and is an unfunded mandate meaning it is funded with 100% tax levy dollars. He continued to say that the Department of Corrections has very little State and Federal aid and is almost 100% tax levy dollars, and in Public Safety our costs continue to rise to patrol state roads while the aid from the State continues to drop.

Mr. Soule explained that the budget is funded by the following breakdown:

31% of revenue is from sales tax

26% of revenue is from the tax levy

26% of revenue from state and federal aid

He discussed the need for serious state mandate relief.

He stated that last year we borrowed \$17 million from the stabilization program which is essentially a loan from the comptroller to pay our pension payments.

A lengthy detailed discussion ensued regarding the sales tax, property taxes, the reserve fund, and unfunded mandates. Mr. Zuckerman suggested that if Medicaid was not an unfunded mandate, as it isn't in any other state, maybe we wouldn't be the highest taxed county in the country.

Ms. Berg stated that she will provide the Commission with a document called the official statement which may be very helpful to the Commission. Chairman Wishnie stated that we will put it in our dropbox for the members to access.

Mr. Binder informed the Committee of the things he found most impressive about the tour of the Department of Public Safety and the Department of Emergency Services. He was particularly impressed with the fire training facility. Jane Morgenstern agreed with Mr. Binder and wondered how duplication of services is occurring. Mr. Menken

commented that he does not know how the response to the recent hurricane would have been different if the 20% cut to the budget was not restored by the Board of Legislators last year. He continued to say that this bears the question as to what the role of the Commission is with these types of issues. Mr. Zuckerman was amazed at the amount of service is provided and the resources that the County has, that it makes him wonder why we have to have local municipal police departments. Mr. Zuckerman stated that there is some duplication in the two departments, particularly with each having a hazmat team. He said he understands that there was a proposal to merge the two departments and maybe the Commission should take a look at that.

Chairman Wishnie asked for nominations for the Vice Chairman and Secretary. Several members expressed that they would like to wait until they know each other better to vote for a Vice Chairman. The Commission agreed to wait on the vote for Vice Chairman, but Chairman Wishnie asked that we vote on Secretary as only one member has expressed an interest and he is highly qualified and would be a great help at this point. The Commission agreed that Herman Geist should be the Secretary of the Commission.

With a motion by Mr. Zuckerman and a second by Mr. Parisi, the Commission voted with unanimous consent, 21-0 to make Herman Geist the Secretary of the Commission.

Chairman Wishnie explained how he would like to proceed moving forward with the focus groups. He stated that the Steering Committee will be made up of the three officers and the Chairs & Vice-Chairs of the focus groups. He stated that he will meet with the Chairs and Vice-Chairs to discuss the structure and operations of the focus groups and will report back to the Commission with the decisions on how things will work going forward.

Chairman Wishnie announced the Chairs and Vice-Chairs of the focus groups except for the Budget & Finance group which he has not yet decided. The Chairs and Vice-Chairs are:

- Executive/Legislative Relationship Focus Group
 - Chair Al Gatta; Vice-Chair Gary Zuckerman
- Local Government/County Government Relationship Focus Group
 - Chair Vincenza Restiano; Vice-Chair David Menken
- Charter & Codes Focus Group
 - Chair Guy Parisi; Vice-Chair- Florence McCue.

Chairman Wishnie stated that he will happily appoint members who have expressed interest in participating in each focus group as members.

Chairman Wishnie asked that we request the DSS Commissioner to give a presentation at the next meeting.

Chairman Wishnie asked that the Commission staff reach out to Chairs and Vice-Chairs to schedule a steering committee meeting.

Secretary Geist stated that he would like to reach out to possible sponsor(s) to provide funding for the Commission. The Commission expressed some concern and questioned whether we would want non-governmental involvement. They agreed to discuss it further in the future.

Mr. Castro-Blanco stated that he will look into the open meetings law as well as using a sponsor for funding.

Ms. McCue asked Mr. Castro-Blanco about the Pace Law interns. Mr. Castro-Blanco stated that he reached out to Pace but internships were already in place, but now that we have a better structure and can outline an internship structure we will have a better chance.

With a motion by McCue, seconded by Dr. Volino the Westchester County Charter Revision Commission adjourned at 8:51 pm.

CHARTER REVISION COMMISSION

October 26, 2011

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of September 27, 2011**
- 2) **Presentation by the Commissioner of the Department of Corrections**
- 3) **Focus groups updates-upcoming meetings**
- 4) **Setting the November meeting date**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

OCTOBER 26, 2011

Members in Attendance: Richard Wishnie, Herman Geist, Raymond Belair, Jeff Binder, Alfred Gatta, Julie Killian, Derickson Lawrence, John Mattis, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, , Jane Morgenstern, Guy Parisi, , Vincenza Restiano, Matthew Thomas, Bertrand Sellier, Ronald Volino, Paul Windels, Gary Zuckerman

Absent Members: Steve Mayo, Anita Delgado, Matthew Thomas, SamZherka

County Staff in Attendance: Bill Mooney, Jim Castro-Blanco, Katy Delgado, Kevin Cheverko, Justin Pruyne, Stacey Dolgin-Kmetz, Chris Crane, David Cabibbo, Melanie Montalto

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order at 7:09 PM.

A discussion ensued regarding changes to the minutes. The Commission discussed the previous discussion regarding looking for outside sponsors to help fund the group. Jim Castro-Blanco of the Law Department explained that outside funders could be seen as influencing the Commission to make certain decisions to benefit their businesses, and can be seen as a conflict of interest if they also do business with the county. Mr. Castro-Blanco also discussed the open meetings law rules. He stated that the sub-committees are not subject to the open meetings law.

With a motion by Paul Windels and seconded by Guy Parisi the minutes of September 27, 2011 were approved as amended with a vote of 17-0.

Kevin Cheverko, Commissioner, and Justin Pruyne, of the Department of Corrections gave a presentation on the Department. The Commissioner has been at the county jail for 27 years, starting as a corrections officer. Mr. Pruyne has been with the county for 9 years, with 7 years in the law department and 2 years in Corrections.

Mr. Cheverko stated that the County Jail is the third largest jail in the state and they have the second largest department and budget of all of the County Departments. He said the county jail has an average of 1448 prisoners per day, up from 1370 from last year, with a capacity to handle 1800. He said the jail is 900,090 square feet.

The Commissioner explained the difference between a county and state prison by stating that the county is for sentences up to 1 year in jail, and a state jail is for sentences over 1 year.

Commissioner Cheverko stated that there are 3 divisions -jail division, penitentiary division, with a separate female unit, and a 14 bed secure ward at Westchester medical center. He said he has almost 900 employees, with 839 of them in uniform and 54 civilians; the salaries comprise of over 75% of the budget. He said he has two deputy commissioners and 6 assistant wardens.

The Commissioner told the Commission that the Department has been accredited by the American Correctional Association since 2009 showing that we comply with the highest standards in the country. He said we are the only jail in New York State with this rating. Chairman Wishnie asked if there are any benefits to having the higher rating. Commissioner Cheverko stated that it has changed the culture with improved air quality and sanitation and it helps when litigating because we are representing the nation's highest standards.

Mr. Binder asked if there are any capital projects in the department. Commissioner Cheverko stated that there are several at the moment, with \$25 million in capital improvements for security cameras, window replacements, and electrical and plumbing upgrades.

The Commissioner discussed the Department's proactive programs which impressed the auditors, including the drug treatment program, resolve to stop the violence program, and the youthful offenders program all for inmates. He also explained the video conferencing system for court appearances which reduces the costs of transporting prisoners from the jail to various courts. A discussion ensued regarding legislation to mandate the video conferencing but many legislators and attorneys have concerns about the inmates' rights to choose to go to the court house. It was explained to the Commission that over the past few years it has become a legislative priority with New York State to pass this cost saving law to mandate the inmates to use the video conference for court appearances such as arraignments.

A discussion ensued regarding the staff structure of the jail and the relationship the Department has with the community and municipalities. The Commissioner stated that aside from working with the municipal police departments to remand prisoners they hold some conferences with them and work closely with the State Department of Corrections as well as the State Sheriffs Association.

The Commissioner stated that they hold approximately 60 parole violators each day, even though in 2009 the state ceased reimbursements for parole violators; however, we receive \$160 per day per parole violator for federal violators and we are currently holding approximately 200 federal parole violators.

The Commission discussed possibly escapees and the process of recapture with Commissioner Cheverko.

A discussion ensued regarding staffing and injured staff members. The Commissioner stated that they currently have 30 staff members out on long term injuries.

The Commission discussed the process of filing a grievance against the jail for inmates with the Commissioner. Commissioner Cheverko explained how grievances are handled internally.

Mr. Sellier asked how staffing levels are determined. Commissioner Cheverko explained that the census determines the staff levels and then by analysis provided by the state. A discussion ensued.

Ms. Killian asked about the recent outsourcing of medical care for the inmates. Commissioner Cheverko explained that they still use the Medical Center for tertiary care and Mount Vernon Hospital for more routine care. The in-house care is now provided by Correct Care, based in Nashville Tennessee.

The Commissioner explained that the contracts for both the corrections officers and superior officers have expired and are currently in negotiations. A discussion ensued regarding the bargaining process.

Commissioner Cheverko stated that the Departments budget is \$108 million tax levy, \$900,000 for the state alienation program, and reimbursement from federal reimbursements for the parole violators with a total estimated budget of \$116 million.

The Commission asked Commissioner Cheverko what his biggest worry is. He stated that currently the union contracts are his biggest concern as they have a strong presence in the department.

Chairman Wishnie emphasized that the Commission will tour the facility so the members can see for themselves how it operates.

Chairman Wishnie went over the focus group chairs and members and gave the members time to get to know each other. The chairs of the focus groups gave an overview of their groups and stated the dates of the first group meetings. The Commission discussed the budget process beginning for the county, what it entails, and how difficult it is going to be this year.

The Commission discussed the need for a stipend for the Commission staff.

The Commission staff will circulate dates to determine the next meeting because of the Thanksgiving holiday.

With a motion by Gary Zuckerman, seconded by Anne McAndrews the Charter Revision Commission adjourned at 8:24 pm.

CHARTER REVISION COMMISSION

November 21, 2011

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) Presentation by Lester Steinman ESQ., member of Wormser Kiely Galef and Jacobs, LLP and Counsel to the City of Newburgh Charter Revision Commission**
- 2) Presentation by the Commissioner of the Department of Social Services**
- 3) Focus groups updates-upcoming meetings**
- 4) No meeting in December, the next meeting will be on Wednesday, January 25th, 2012. Happy Holidays!**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

NOVEMBER 21, 2011

Members in Attendance: Richard Wishnie, Raymond Belair, Jeff Binder, Anita Delgado, Alfred Gatta, Julie Killian, Derickson Lawrence, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Ronald Volino, Paul Windels, Gary Zuckerman

Absent Members: Herman Geist, John Mattis, Bertrand Sellier Matthew Thomas, Sam Zerka

County Staff in Attendance: Katy Delgado, Kevin McGuire, Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Guests: Julie Stern, Les Steinman

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order at 7:10 PM.

Les Steinman, ESQ., a member of Wormser Kiely Galef & Jacobs, LLP and Counsel to the City of Newburgh Charter Revision Commission spoke to the Commission about his work. He stated that he also worked on charter revisions for New Castle and White Plains. He explained the process of having a professional consultant work with a charter revision commission, from attending every meeting, to making presentations, to providing legal advice and drafting the final report and legislation. Mr. Steinman provided copies of the final report he prepared for the City of Newburgh. A copy is on file and available for review.

Mr. Steinman stated that it is important to hire professional staff to have the commission as their primary focus. He stated using the government employees compromises the commission and these employees have other duties and cannot focus solely on the commission.

The Committee discussed the different types of government structures with Mr. Steinman, as well as the difference in commission legislation between Newburgh and Westchester.

Chairman Wishnie stated that the legislation establishing the Commission allows us to decide how deep we want to go, if we just want to make recommendations for some policy changes or if we want to suggest a complete restructure of the county government. He stated that the Commission will need an extension and if the Commission thinks we

need to, we can ask for amended legislation to require the Commission's recommendations be implemented.

Chairman Wishnie also stated that he believes we should have some paid staff, that current staff has many tasks in addition to this and we may want to ask for funding to hire an outside consultant and professional staff. Several members agreed, stating that the legislation says funding is supposed to be available for such a purpose. The Commission continued the discussion regarding hiring professional staff, the cost, and possible law students.

Kevin McGuire, Commissioner of the Department of Social Services explained the Department and its various programs. He stated that the Department of Social Services is the largest department in the county. The Commissioner said this year's budget was \$587,578 million, with \$200 million of that being tax levy dollars which goes to pay for things like public assistance and foster care. He stated that a lot of the funding is provided by the state. He stated that the activities of the department are prescribed in state law and the commissioner is actually considered an agent of the state. Commissioner McGuire explained that he has to work with the State Department of Health which oversees the Medicaid program and the Medical Assistance Programs. He also has to work with the State Department of Social Services and two branches within it, the Office for Children & Family Services which covers the child welfare activities, adult protective services and child care, and the Office of Temporary and Disability Services which handles the welfare programs itself, the temporary assistance, home heating assistance, etc.

Commissioner McGuire stated that while the state writes the regulations and programs that have to be provided they do not tell the counties how to operate these programs, that is left to the counties and local municipalities and this is one thing the Charter Commission may want to look at.

Commissioner McGuire stated that the Department has 1,100 staff members, which comprise of the child protective services, foster care, and welfare programs which are family assistance and food stamps which is 100% federally funded aside from the administrative expense.

A lengthy discussion ensued regarding Medicaid, Medicaid fraud, and reimbursements. Commissioner McGuire explained the process of the county determining eligibility for Medicaid and how the payments are made by the state. He said the state is beginning to take on the eligibility portion of the process for the county. He explained that the state used to do a 50-50% payment plan for all of their programs but over the past few years they have been changing the reimbursement rates so the county is paying up to 70% of their mandated programs. He explained that over the next few years the state may begin taking over more of the Medicaid costs, the idea is gaining momentum in Albany and being thought out.

Commissioner McGuire explained how Medicaid fraud is identified at the state level.

Mr. Zuckerman asked why the towns and villages do not have their own social services office. Commissioner McGuire explained that that used to be the case but the state feels it is more efficient to deal with one department for each county and send the funding to one place to be distributed by the county.

Mr. Zuckerman asked how much of the Department's tax levy money is discretionary. Commissioner McGuire stated that not much of it is discretionary at all because many of the state and federal programs require matching dollars, or the funding provided by the state and federal government is not enough to administer mandated programs.

Commissioner McGuire explained that the Department often contracts with not-for-profit organizations in the county to help provide services. He also discussed the staffing structure with the Commission.

Commissioner McGuire explained the difficulties of operating with three different budget cycles, with funding and mandated programs coming from the Federal budget cycle, the State budget cycle, and the County budget cycle. The Commission discussed looking into possibly changing the County budget calendar to match the state calendar.

Chairman Wishnie stated that we will be sending a letter to all of the Commissioners asking them for suggestions on changes the Commission could suggest that would improve the operations of their departments.

The Commission discussed the current budget process with Commissioner McGuire. He stated that he would like to be able to keep his staff and ensure that housing is provided to the homeless for next year and moving forward.

The Focus Group Chairs provided updates on their groups meetings and progress.

Vincenza Restiano, Chair of the Local-Government-County Government Relationship Group, said they are reviewing the Westchester 2000 report and the previous 1988 commission report for valuable information. She discussed the importance of sharing the work that we are doing with the public so they can provide input. Ms. Restiano stated that they will discuss planning and assessment, consolidation of services with municipalities, school boundaries, county road service, mutual aid and first responders, storm water management, sewer district management, and more. Ms. Restiano stated that all of the members are coming up with questions that can be circulated to the local municipalities in terms of their workings with the county. The group also wants to learn better the roll of the county to understand what is already being provided to the municipalities and what they can provide. Chairman Wishnie stated that we will prepare a letter that can be sent to all of the municipalities.

Jeff Binder gave an update on the Budget & Finance Focus Group's two meetings. He said they are asking all of the members of the group and the rest of the Commission to attend a budget meeting or public hearing and provide feedback to group on the procedures. Mr. Binder stated that they are following the budget presentations and

studying the budget to see where the funding comes from and how it is distributed and allocated. He said he has met with a former Budget Department Director to help understand the budget process. It was explained that anyone can watch the live stream or later watch the video of the department's budget presentations but Mr. Binder encouraged being in the room at least once to get the entire experience. He stated that they have requested and are receiving helpful suggestions and information from commissioners and former and current staff. The next meeting will be on Monday, November 28th at 9:30 am.

Al Gatta gave a report on the Executive/Legislative Relationship Focus Group's first meeting. He stated that the group discussed the different forms of government. For the next meeting he will invite a member of NYSAC to speak to the group on their dealings with the different counties and government structures. Mr. Gatta said that at the next full Commission meeting in January, Al DelBello will be invited to speak about his experiences as a County Executive and working with the Legislature.

Guy Parisi, Chair of the Charter & Codes Committee gave an update on their first meeting on November 11th. He said they have identified the group's mission and will be looking for inefficiencies and redundancies in the charter, as well as looking at the processes for amending the charter.

Chairman Wishnie stated that there will not be a full Commission meeting in December. He discussed finding a bigger meeting space where everyone will fit at the table with parking. The members discussed the possible move and how they would only like to do so if it will be convenient for the staff. The members also discussed the need for an extension on the deadline for the Commission report. Chairman Wishnie stated that he will draft a request for an extension to be submitted after the budget is complete.

With a motion by Gary Zuckerman, seconded by Anne McAndrews the Charter Revision Commission adjourned at 8:45 p.m.

CHARTER REVISION COMMISSION

JANUARY 25, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of October 26 & November 21, 2011.**
- 2) **Presentation by the Honorable Alfred B. DelBello, former Lieutenant Governor of the State of New York, Westchester County Executive, and Mayor of the City of Yonkers.**
- 3) **Presentation by Kathleen O'Connor, the Commissioner of the Department of Parks, Recreation & Conservation.**
- 4) **Presentation by the Honorable Timothy Idoni, Westchester County Clerk.**
- 5) **Legislation extending the Westchester County Charter Revision Commission until December 31, 2013.**
- 6) **Focus groups reports.**
- 7) **The next meeting of the Charter Revision Commission will be on THURSDAY February 23, 2012.**
- 8) **Schedule of meetings and visitations:**

County Jail on Thursday, January 26th, at 1:00 pm.

Steering Committee Meeting on February 1, 2012, at noon.

Emergency Operations Center (EOC) on Thursday, February 2nd, at 1:00 pm.

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

JANUARY 25, 2012

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Julie Killian, Derickson Lawrence, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Guy Parisi, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Anita Delgado, John Mattis, Vincenza Restiano, Ronald Volino, Sam Zerka

County Staff in Attendance: Kathy O'Connor, Peter Tartaglia, Katy Delgado, Justin Adin, Stacey Dolgin-Kmetz, Josh Annex, KerriAnn Stout, Melanie Montalto

Legislators in Attendance: Virginia Perez, Catherine Borgia

Guests: Alfred B. DelBello, Timothy Idoni

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order at 7:05 PM.

Chairman Wishnie introduced Alfred B. DelBello, former Lieutenant Governor of the State of New York, Westchester County Executive, and Mayor of the City of Yonkers.

Mr. DelBello discussed the culture when he was County Executive and that today, the culture has changed for the worse, calling the present legislating process dangerous. The County Executive and Board of Legislators did what was best for the citizens of Westchester County.

Mr. DelBello discussed the Board of Acquisitions & Contracts, stating it is a County Executive function, as he is ultimately responsible for the contracts and performance of the contractors/vendors. He reiterated that this is an executive form of government, and must be kept strong so that someone is held accountable and responsibility isn't diluted. Mr. DelBello believes that if the legislative branch doesn't function; it is the executive branch's fault. He noted that this is not something that can be changed by amending the Charter.

Mr. DelBello stated the budget process and elections continue to be kept separate. He noted that the Board of Legislators has a smaller window to add to the budget than it does to items in the budget. Mr. DelBello suggested changing the fiscal year from January 1 to July 1 as it makes no sense to submit the County Budget before the State Budget. Mr. Wishnie opened the floor for questions.

The Commission asked how much of the budget was mandate driven during his tenure compared to today. Mr. DelBello responded that it was worse, stating the contribution to Medicaid used to be 25% compared to only 15% today. Mr. Geist noted that the number is closer to 18%. Mr. DelBello stated that they used handle state mandates in their budget a little differently. He pointed out that while the mandates may be set, the way they are handled is not, as the State doesn't tell you how to run them. It is up to the County's governing ability and efficiency. He said he handled absolute mandated costs to aid dependent children and administrative costs together, giving them flexibility. Mr. Geist stated that the County also had additional responsibilities such as the court houses, the medical center, and the college.

Chairman Wishnie asked Mr. DelBello to talk about duplication of services and the consolidation of departments. Mr. DelBello stated that at the County level, people automatically assume and equate the consolidation of departments and services with savings and efficiency, as certain functions require dedicated commitment and attention, giving the Department of Public Works & Transportation as an example of how consolidation may not always be better.

Jeff Binder asked about the counties AAA bond rating. Mr. DelBello noted we are only one of two counties whose municipalities guarantee bill payment. Mr. Binder asked if that is fair and should it continue. Mr. Geist discussed the history of how that law came to pass. Mr. DelBello stated that the AAA rating was on the brink of being lost this year. He said there are approximately 30 AAA rated counties in the country, and they maintain a 25 – 30% reserve balance. He said the recent analysis showed that Westchester has spent down its fund balance to 6.5-6.9% and that the appropriate course of action was to cease dipping into the reserve fund and rebuild it to around 15-20 %.

The Commission asked Mr. DelBello's opinion on the number of Commissioners the county has, as well as, the number of legislators. Mr. DelBello stated that he thinks 9 legislators on the Board is more than enough, as to the number of Commissioners, he said it depends on the County Executive and his staff. He said the deputy county executive should be the chief administrator; and this is a question of span of control.

The Commission asked if the culture doesn't change and there is a continued period of "head banging" between the Board of Legislators and the County Executive, would any charter provisions make this relationship better. Mr. DelBello says there is no way to

amend the charter to influence this and that ultimately you can't force the two branches to work together.

The Commission asked Mr. DelBello's opinion on using the veto power. Mr. DelBello said the veto power is appropriate as is the Board's ability to override it. He said it is a system of checks and balances.

The Commission asked Mr. DelBello to discuss the office of the County Attorney. Mr. DelBello felt that the County Attorney position is the most important position in the county government and needs to be professional, responsible, and impartial as he or she represents the entirety of the County Government.

Matthew Thomas asked how Mr. DelBello's experience as Mayor of Yonkers using City Managers and being a weak-format Mayor influenced his time as County Executive. Mr. DelBello stated it was helpful since he was involved with the council. His City manager in Yonkers referred any political decisions to him and same thing happened when he was the County Executive. As an elected official he had many political responsibilities and needed a competent administrator to handle the day-to-day responsibilities. Mr. DelBello reiterated the need for a strong executive branch of the County Government.

Chairman Wishnie discussed the proposed legislation to extend the life of the Charter Review Commission with the group. The legislation would extend the Commission through the end of December 2013, with a deadline for the report being May 31st, 2013. He made a motion to accept the legislation, which passed, and stated he will be forwarding it to the Board of Legislators. He then discussed changing the day of the meetings to accommodate the Commission's new consultant, Lester Steinman, along with several planned trips to County and State facilities.

Chairman Wishnie introduced the Commissioner of Parks & Recreation, Kathleen O'Conner, who gave a PowerPoint presentation on the state of the Parks, Recreation, & Conservation Department. Ms. O'Conner introduces Deputy Commissioner Peter, Tartaglia. She stated that it has been a difficult time for the Department, but the leadership has compensated for that. A copy of the presentation is on file and available for review.

Since the Department has had so many cuts in recent years, leadership training has been essential, as relatively recent staff additions now hold leadership positions. She noted that the Department of Parks, Recreation, & Conservation is the only County Parks Department accredited by the National Recreation & Parks Association.

Ms. O'Connor discussed the values of the Department – Performance, Respect, and Commitment – an ideology that all staff adheres to. She described the various annual

training seminars that helps deal with problems, such as numerous layoffs and then rehires, 33 layoffs, 19 rehires – in order to re-energize the 19 rehires that are wary of their job situation.

Ms. O'Connor stated that the Department of Parks, Recreation, & Conservation accounts for approximately 3% of the County's budget, while the Department's operating budget is down 8% from last year from \$51 Million (7% tax levy decrease) down from \$48 million. She noted that 70 % of the Department's costs are made up in revenue. They currently stand at 268 employees, down from 330 in 2009. Service cut savings include closing certain facilities, the redistribution of staff, and partnering with local companies to reinstate services that would otherwise have been cut. She added that the majority of the consolidated positions within the department have been administrative positions.

Ms. O'Connor noted that the Department uses surveys to determine the public's interest in the County's Parks, with 84% of the responses giving the Parks positive reviews, of which, Playland and Kensico Dam Plaza are the two most widely utilized Parks and the County's Golf Courses as one of the most utilized facilities. She further went on to describe the County's Golf Courses increasing popularity, due to the economic climate, and that the costs of running them broke even with the annual revenue.

Ms. O'Connor stated that much of the infrastructure is over 80 years old, and the Department continually improves existing facilities and takes on new capital projects. One example of a successfully completed capital project recently was the waterslides Tibbet's Brook Pool, with an estimated 86,000 visitors in 2011. The Commissioner went on to describe the Department of Parks, Recreation, & Conservation Legacy Programs and intermunicipal agreements with local municipalities, and how they generate revenue.

Ms. O'Connor told the Commission that the County Center is a popular venue, describing some of the larger events that local municipalities can't handle. She further went on to state that it has operated with a close to 0% tax levy over the last decade. Mr. Thomas asked if anything was privatized and the Commissioner responded no, that her Department is directly responsible for the County Center.

Ms. O'Connor went on to discuss the state of Playland, stating that the park is open for 2012, and the future development of Playland is in phase 3. She described the responsibilities of the Playland Staff, numbering 700 hourly's hired annually, with 70% returning. She noted that Playland is 1 of only 2 amusement parks to have National Historic Landmark status and is recognized worldwide. She described Park Revenue coming from admission, parking, private catered events, group sales, and concessional contracts.

The Commissioner discussed the Playland Ice Casino, its operation, and related activities. She noted it operates with a close to 0% tax levy and its recent renovation in 2007 for the Empire State Games.

Finally, Ms. O'Connor described concessions. She stated that they are a significant part of revenue, running about 100 license agreements, with a \$5 million dollar annual budget. Ms. O'Connor opened the floor for questions.

The Commission asked about Playland's admission rates for County residents and non-residents. She stated that 4 years ago in order to improve the tax levy ratio and improve safety, a fence was put up around the park and a wristband was introduced.

Florence McCue commended the Parks staff and asked if the County's ethnic festivals would be happening and what would be the additional cost. The Commissioner said that the festivals are happening, and the only program that they will not be doing are the Open Gym program at the County Center.

Chairman Wishnie introduced County Clerk Tim Idoni, who gave his experience and credentials, as well as the history of the office of the County Clerk. He noted he works under both the State Constitution and the Federal Government for passports and naturalization and under the county charter for electricians and plumbers. Mr. Idoni stated that he is an agent of the state; he operates the land records office under state law, is the clerk of the Supreme Court and county courts, and is paid by the citizens of the County. He stated he has all 3 levels of government controlling his office.

The County Clerk has worked with virtually every department at one point or another and is close with the Information Technology Department. Since 2006 he said they have automated their land records and have cut down on staffing; now operating with 75 staff members. He said there used to be too many people working in the Office of the County Clerk, and now there are only 8 people under him, and because of the savings they operate at a negative tax levy of \$3 million dollars. He used his management background to reorganize the Office and now saves \$850,000 annually by cutting 17 positions.

Mr. Idoni admitted that when he first became County Clerk, he had the prejudices many local officials had concerning the County Government, but he changed his views. He gave a lot of credit to both the prior and current administration in hiring good people to run the county efficiently. However, he feels, the problem is that there are too many local municipalities and he suggested that consolidation of fire districts and school districts would save us money.

Mr. Idoni said he supported a strong mayor in New Rochelle because an efficient city manager still needs a strong political figure for support. Mr. Idoni stated that the county

can do a better job with sharing services, and proposed the creation of data centers around the county with servers for the local municipalities as a money saving project, realizing that the County already has a top notch IT department. Mr. Idoni opened the floor for questions.

The Commission asked about the background of the people in the County Clerk's Office. Mr. Idoni responded that his 1st deputy is a Columbia law school grad who is a great project manager; His 2nd deputy is his former assistant from New Rochelle who knows personnel very well and handles licensing agreements; His 3rd deputy is a former FBI and IT wiz who runs tests and writes programs. Additionally, he noted he has a staffer responsible for community outreach, which markets and administers a truck that goes out 40-50 times a year.

The Commission asked who controls the County Clerks budget. Mr. Idoni responded that power lies with the Board of Legislators. Mr. Geist gave a history of how the office of the County Clerk was moved to White Plains.

The Commission asked if the County Clerk's office is fully funded by the County since they provide so many services on behalf of the State and Federal Government. Mr. Idoni responded that the numerous fees outweigh the County contribution; therefore the county doesn't actually provide real funding for his budget.

The Commission asked about the suggestion by Legislator Kaplowitz in 2010 that the Clerk take over the Consumer Protection Function. Mr. Idoni makes the point that the consumer protection office is under the county executive's office. He is in charge of passports and naturalization, and all the licenses. The Commission asked if any specific change to the charter would make his office function better. Mr. Idoni stated that the Commission should strongly look at having the responsibilities for plumbing/electricians boards and consumer affairs be merged in one place.

The Commission asked if the County Clerk provided services for the municipalities. Mr. Idoni stated they do mortgage taxes for the municipalities. He said they also digitized the records and communications between their office and the local assessors, along with automating the process for certain municipalities where they take bulk filings of small claims assessment reviews, which recently the number has soared from 650 in 2006 to over 10,000 in 2011.

The Commission asked if the County Clerk is elected by State Law. Mr. Idoni said that it is. He said a prior Charter Revision Commission recommended the county clerk should be an appointed position, but it is a state decision. Mr. Idoni believed that it should be an appointed position. Chairman Wishnie thanked Mr. Idoni for his time.

Mr. Wishnie announced the next meeting will be Thursday, Feb 23, 2012.

With a motion by Florence McCue seconded by Guy Parisi the Charter Revision Commission adjourned at 9:01 pm.

CHARTER REVISION COMMISSION

FEBRUARY 23, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Montrose

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of January 25, 2012.**
- 2) **Presentation by Jim Robertson, Assistant County Attorney, on the Westchester County Procurement and Acquisition and Contracts process.**
- 3) **Presentation by Milt Hoffman, former Senior Editor of the Editorial Page of the Journal News.**
- 4) **Election of two Vice Chairs to the Westchester County Charter Revision Commission.**
- 5) **Update on legislation extending the Westchester County Charter Revision Commission until December 31, 2013.**
- 6) **Focus groups reports.**
- 7) **The next meeting of the Charter Revision Commission will be on THURSDAY, March 29, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

FEBRUARY 23, 2012

Members in Attendance: Richard Wishnie, Raymond Belair, Jeff Binder, Herman Geist, Derickson Lawrence, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, Vincenza Restiano, Bertrand Sellier, Paul Windels, Gary Zuckerman

Absent Members: Anita Delgado, Alfred Gatta, Julie Killian, John Mattis, David Menken, Jane Morgenstern, Guy Parisi, Matthew Thomas, Ronald Volino, Sam Zerka

County Staff in Attendance: Justin Adin, Stacey Dolgin-Kmetz, KerriAnn Stout, Chris Crane, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Jim Robertson, Brian Miller, Milt Hoffman

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order at 7:11 PM.

With a motion by Florence McCue, seconded by Gary Zuckerman the minutes of January 25, 2012 were approved with a vote of 10-0.

Chairman Wishnie introduced Jim Robertson, Assistant Chief Deputy County Attorney, who gave a PowerPoint presentation on the Board of Acquisition and Contract. A copy of the presentation is on file and available for review.

The Commission discussed the powers of the Board of Acquisition & Contracts, as well as the powers of the County Executive and the Board of Legislators over the Board.

Chairman Wishnie introduced Milt Hoffman, former Senior Editor of the Editorial Page of The Journal News.

Mr. Hoffman discussed how he used his power of the press to make positive changes to the county government. The example that he gave was that he felt that the Board of Acquisition and Contract meetings should be open to the public, and since he published his opinion in the paper the meetings have been open.

Mr. Hoffman stated that he supports county government and he thinks it should get stronger. He explained the history of the current county government structure, including

the public voting to establish the office of the county executive as well as changing the board of supervisors to the board of legislators. He explained the history of the financial cap in the charter that prevents the county from construction projects that cost over \$10 million. Mr. Hoffman asked that the Commission make a change replacing the mandatory referendum with a permissive referendum for the county to do projects over \$10 million. His second suggestion is to have property evaluation assessments done by the county instead of the municipalities. He understands that it would have to be put on a referendum but he says let the voters decide if this is what they want.

Mr. Hoffman also suggested that municipal fire departments be consolidated to save the tax payers a lot of money and to run the fire departments more efficiently. He stated that this idea has been repeatedly been suggested in reports over the decades but no one has ever done anything about it. Vincenza Restiano stated that her focus group is beginning to look at consolidation. A discussion ensued regarding consolidation and sharing services.

Chairman Wishnie stated that we will have elections of the vice chairs at the next meeting when everyone is back.

Gary Zuckerman stated that the Executive/Legislative Focus Group will meet on Tuesday the 28th at 11:00 to hear from former county legislators George Latimer and Martin Rogowsky. The meeting will be at Al Gatta's office in Scarsdale.

Vincenza Restiano stated that the Local Government/County Government Relationship Focus Group is investigating consolidation of services possibilities and will invite Luisa M. Iadeluca to the next meeting on March 29th at 530 pm to share her dissertation on the specifics of our focus group, and village managers and city managers to the April meeting.

Florence McCue gave an update on the Charter and Codes Focus Group. She stated that at the last meeting they reviewed their mission statement and received a copy of the full report of the previous charter revision commission to go over their suggestions. She also stated that as recommended by Mr. Steinman and counsel that we look into the role of the county attorney and will be inviting former county attorneys in to speak on specific areas of the charter.

Paul Meissner gave an update on the Budget & Finance Focus Group. He said they set up some parameters of things they would like to achieve and a laundry list of speakers they would like to have in. He stated they do not have another meeting scheduled yet.

Chairman Wishnie stated that the next meeting of the Commission will be on March 29th, 2012 at 7:00 pm.

With a motion by Anne McAndrews seconded by Gary Zuckerman the Charter Revision Commission adjourned at 9:07 pm.

CHARTER REVISION COMMISSION

MARCH 22, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of February 23, 2012.**
- 2) **Presentation by Andrew J. Spano, immediate past County Executive.**
- 4) **Election of two Vice Chairs to the Westchester County Charter Revision Commission.**
- 5) **Update on legislation extending the Westchester County Charter Revision Commission until December 31, 2013.**
- 6) **Focus groups reports.**
- 7) **The next meeting of the Charter Revision Commission will be on Thursday, April 26, 2012.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

MARCH 22, 2012

Members in Attendance: Richard Wishnie, Jeff Binder, Herman Geist, Julie Killian, Derickson Lawrence, John Mattis, Anne McAndrews, Florence McCue, David Menken, Jane Morgenstern, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Anita Delgado, Alfred Gatta, Steve Mayo, Paul Meissner, Guy Parisi, Ronald Volino, Sam Zerka

County Staff in Attendance: Justin Adin, Robert Alberty, Stacey Dolgin-Kmetz, KerriAnn Stout, Melanie Montalto

Commission Counsel: Lester Steinman

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order at 7:09 PM.

With a motion by Paul Windels, seconded by Julie Killian the minutes of February 23, 2012 were approved with a vote of 14-0.

Chairman Wishnie stated that he would like to recommend David Menken as the First Vice-Chair and Vincenza Restiano as the Second Vice Chair of the Commission. Gary Zuckerman moved the nomination which was seconded by Jane Morgenstern.

Jeff Binder stated that he would like to nominate Derickson Lawrence for Vice Chair for the Commission to consider. Anne McAndrews seconded the nomination.

Jane Morgenstern made a motion to close the nominations which was seconded by Paul Windels. John Mattis made a motion to have three vice chairs which was seconded by Vincenza Restiano.

The Commission discussed the function of the three vice chairs and it was agreed that there would be a first, second, and third vice chair title, with the first vice chair taking the chairman's place in his absence.

Chairman Wishnie called for a vote on the motion to have three vice chairs. The motion carried with a vote of 13-2. Chairman Wishnie called for a vote to appoint David Menken the First Vice-Chair. The motion carried with a vote of 15-0. Chairman Wishnie called for a vote to appoint Vincenza Restiano the Second Vice-Chair. The motion carried with a vote of 15-0. Chairman Wishnie called for a vote to appoint Derickson Lawrence the Third Vice-Chair. The motion carried with a vote of 15-0.

Chairman Wishnie told the Commission that he met with the Legislation Committee of the Board of Legislators to request an extension for the Commission as previously discussed and the Committee signed out the extension for the Commission to end in December of 2013.

The Focus Groups gave an update on their most recent meetings.

Gary Zuckerman stated that the Executive/Legislative Focus Group heard from former county legislators George Latimer and Martin Rogowsky. He said that George Latimer said party and personal interest create conflict not the policy. He said Mr. Latimer discussed how the press focuses mostly on the county executive because he manages the day to day operations and that even though the law department and budget director also work for the Board of Legislators they mostly work for the County Executive. Mr. Latimer stated that he thinks the county budget calendar should match that of the state and should be due in July rather than in December to simplify the process of balancing our budget with funds we receive from the state. Mr. Zuckerman stated that Marty Rogowsky focused more on structure and the need to clarify the power of the two branches. Mr. Rogowsky suggested reducing the number of legislators to increase efficiency and that a more homogeneous structure is needed in the executive branch.

Mr. Zuckerman stated that the next meeting is March 27th and the speakers are Legislator and former Chair of the Board Bill Ryan, and former Legislator John Nonna.

Vincenza Restiano stated that the Local Government/County Government Relationship Focus Group is meeting next week on the 29th with Luisa M. Iadeluca who will share her dissertation on the specifics of the focus group and consolidation of services. She stated that they will be putting together the questions for the municipal officials soon.

Florence McCue gave an update on the Charter and Codes Focus Group. She stated that at the meeting today Robert Meehan the County Attorney answered questions about the charter and working for both the Executive and Legislature. She stated that Mr. Meehan stated that he represents the county as a whole and his job is to interpret the law so it is not difficult to provide information to both the branches of government. Ms. McCue stated that the group discussed how Chris Crane and Stacey Dolgin-Kmetz are not employees of the County Attorney, but work for the Board of Legislators as counsel. She

stated that the group discussed the possibility of a mediator but in the end decided against the idea. She stated that they also discussed the Playland Commission with Mr. Meehan and discovered that it has not been in operation in approximately 30 years. The group decided to look into possibly removing it from the charter. She stated that they also discussed the appointments process which is currently being looked at by the Board of Legislators.

Jeff Binder gave an update on the Budget & Finance Focus Group. He said they met with Olivia Rhodes and Anne Reasoner of the fiscal staff at the Board of Legislators. He said it was a helpful meeting and hearing that they felt this past budget season provided a good budget and the parties worked together. Mr. Binder stated that they will meet with Bennet Kielson next as they conduct the audit of the county budget every November. Mr. Binder stated that we may want to hear from the rating agencies next.

The members went around the table and provided their thoughts at this point in the process. It was suggested that the focus groups keep an index of suggestions, ideas, and submissions by speakers. Mr. Steinman suggested that the focus groups be ready with their recommendations by June 30, 2013 so that the entire group can go through them, pick which ones will go in the report and have the report written in time for the December deadline. Mr. Zuckerman suggested that we be finished with our suggestions even earlier than that. Mr. Windels suggested that we take a look at the issue of ethics and possibly have the District Attorney speak to the group. He said we should look to see if the state laws are adequate or if we think there is something we can do to help the county in that regard. He also said that we should address the issue of the unfunded mandates and pension costs. Ms. Dolgin-Kmetz informed the group that the county does have its own code of ethics in addition to the state code. Mr. Steinman said we should discuss the possibility of an inspector general. Mr. Menken stated that he hopes the report of the Commission does not get swept under the rug. A discussion ensued regarding the election commissioners and their positions as party chair.

Chairman Wishnie stated that we need to have public hearings when we are in the later stages of our work in order to educate and get input from the residents and generate support for our suggestions.

Chairman Wishnie stated that in the absence of our speaker and the confusion of meeting dates this month, the Commission will meet next week on March 29th, 2012 at 7:00 pm.

With a motion by Anne McAndrews seconded by Gary Zuckerman the Charter Revision Commission adjourned at 8:20 pm.

CHARTER REVISION COMMISSION

MARCH 29, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
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PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Presentation by Andrew J. Spano, immediate past County Executive.**
- 2) **Update on legislation extending the Westchester County Charter Revision Commission until December 31, 2013.**
- 3) **Focus groups reports.**
- 4) **The next meeting of the Charter Revision Commission will be on Thursday, April 26, 2012.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

MARCH 29, 2012

Members in Attendance	Jeff Binder, Alfred Gatta, Herman Geist, Derickson Lawrence, John Mattis, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Vincenza Restiano, Matthew Thomas, Ronald Volino, Paul Windels, Richard Wishnie, Gary Zuckerman
Absent Members	Raymond Belair, Anita Delgado, Julie Killian, Steve Mayo, Guy Parisi, Bertrand Sellier, Sam Zerka
County Staff in Attendance	Justin Adin, Robert Alberti, Chris Crane, Stacey Dolgin-Kmetz
Commission Counsel	Lester Steinman
Guests	Andrew J. Spano

MINUTES

With a quorum present, Chairman Wishnie called the meeting to order. Chairman Wishnie introduced the evening's speaker, former County Executive Andrew J. Spano, and gave some background information about Mr. Spano.

Mr. Spano discussed his time as County Executive and stated that he had a plan, which incidentally ignored in large part, the County Charter. He described it as being a job that required someone to be a flexible administrator in order to provide for the different municipalities, school districts, fire districts, etc. and considered the County Government to be a resource center for those municipalities, specifically resources that the municipalities didn't possess themselves; firmly believing in the utilization of shared services between the County and local municipalities

He stated that the problem arose when County Government was considered an entirely separate entity. His belief was to keep taxes relatively higher at the local level than at the County level. Certain County-provided services were cheaper in comparison to those same services being provided by the locality, although a takeover would directly increase County taxes.

He referenced the County taking over the repair of certain sewer systems as a whole, being cheaper than each municipality making the repairs individually, along with the County receiving a grant, further reducing the overall cost. He also discussed the success and cost savings of the GIS Data System, along with the economic benefits from the

creation of a County-wide broadband network now spanning 1,500 miles, by implementing the aforementioned principles.

He stated that any changes to the Charter must stay consistent to the idea of the County Government remaining as a resource center. The ratio of County taxes to Municipal taxes shouldn't be a point of contention, as long as the overall taxes were reduced.

He discussed the benefits to County Government from the investment of technology and other services. He stated that in the long run they saved the County money and increased efficiency, although that was a difficult thing to implement in today's economy, as cutting out the metaphorical "middle-man" also resulted in job cuts.

Chairman Wishnie asked Mr. Spano to address two issues – first, any changes that resulted in the operation of County after 9/11 and second, the relationship between the executive branch and legislative branch during his tenure, along with any possible changes to the form of government that presently exists in Westchester County.

Mr. Spano stated that before 9/11 there was no Department of Emergency Services that was under the County's jurisdiction. Although Hurricane Floyd resulted in the first steps being taken, on 9/11 there was still no official Department of Emergency Services. The inability of the County to effectively coordinate with the City of New York after the events of that day changed this.

The Commission asked if there were any provisions in the Charter, related to the structure of County Government, which may have impeded its operation. Mr. Spano stated he never used his power of veto, although this didn't equate to harmony with the Board of Legislators. He explained the current tension between the Board of Legislators was a natural occurrence, and in fact, the Board of Legislators as a whole, was more powerful than the County Executive, as defined by the provisions of the Charter. He spoke of the need to work with both political parties.

The Commission asked him to discuss the budget process. Mr. Spano stated that it was a balancing act and there were a number of issues to consider. First, taxes shouldn't be raised unnecessarily. Second, funding had to be in place to avoid crippling the government, although cuts could be made if necessary. The Commission asked if as a County Executive he personally spoke with the Board of Legislators, to which he replied all the time. Chairman Wishnie referenced Alfred DelBello's comments on the culture that used to exist in County Government, which put the people first.

He attributed problems during the budget process to philosophical differences, and the problem of "those who wanted to look good, and those who wanted to do good," with each branch of government jockeying for approval with the people. He further discussed issues with capital projects, and the need for a balanced budget. He stated charter provisions that restricted the flexibility of the County Executive, in reference to the budget, would not be a good thing. He also discussed the effect mandates have had on

taxation. Mr. Spano also addressed the Commission's questions about property re-evaluation.

The Commission asked Mr. Spano his opinion on whether the County Executive position should remain as it is today, or if it would be more successful if it were incorporated in some way into the Board of Legislators. He was adamantly against a manager form of governments, as it diluted the responsibility and accountability of the executive position. He went on to voice his opinion that the structure of the Board of Legislators should remain as it is today and that he was against the incorporation of the position of a County Comptroller. He also addressed the issues of impartiality of the County Attorney and Budget Director, and stated that if the Board of Legislators didn't agree with the opinions of the County Attorney, they should have their own counsel.

The Commission asked what Mr. Spano's opinion was as to the contributing factors of the growth of the Board of Legislators staff over the past decade. He stated that while in office, neither branch really interfered with each other's staff decisions. The second part of the question was whether certain qualifications should be in place for legislative staffers, to which Mr. Spano referenced the Civil Service case. Additionally, they asked his opinion about the position of County Clerk. Mr. Spano believed that it was an unnecessary office, as advances in technology have rendered the office irrelevant, and he went on to discuss the position.

The Commission went on to ask if the County's fiscal year should be changed so that it was in line with the State's fiscal year. Mr. Spano responded that it should remain after elections in order to stay out of the campaign process, but the time between its submission and adoption could be increased. He was also in favor of changing an annual budget to a rolling budget as there wasn't enough time for legislators to review the budget. The Commission discussed the budgetary process related to the Charter provisions, and the inherent advantages or disadvantages one branch of government had. They also discussed the role of the Board of Legislators as policy-makers.

Mr. Spano essentially stated the need for him to choose his battles during his tenure as County Executive. He stated that if one was to stand on their principles for every single item, it wasn't possible to run the government. It all came back to the need for compromise.

The Commission asked about possible changes to the Charter in the event that the current dysfunction continues to exist perpetually. Mr. Spano stated that one had to observe with a benign eye and assume that people will do the right thing, which happens 90% of the time. Philosophical differences that cause the current dysfunction still allow the government to exist and run. He discussed the current controversy over the Board of Acquisitions & Contracts, and stated that presently the balance of power lies in favor with the County Executive. Mr. Spano discussed past conflicts between the Board of Legislators and the County Executive. The Commission thanked the speaker and the Chairman opened the floor for any questions or comments.

The Commission stated that they should follow the current court case over the Board of Acquisitions & Contracts. On the next meeting, April 26, 2012, Mr. Zuckerman has a presentation scheduled. His focus group has open forums that have previously discussed affordable housing and mandate relief of unfunded state mandates. Panelists for the next forum include County Executive Robert Astorino, the mayor of Rye Brook, Assemblywoman Sandra Galef, the Executive Director of the New York State Association of Counties, the Rye Neck School Superintendant, and will be moderated by the Legislative Director of the State League of Women Voters, along with Larry Schwartz, possibly.

The Commission asked about possibly changing the date of the Charter Revision Commission Meeting, in order for members to attend the forum. The Commission decided that Monday, April 23, 2012 would be the best time for the meeting and an RSVP would be sent out to find out who would be attending.

The Commission recognized Ms. Restiano, who stated that their intern would be giving a presentation on a comparison of services between municipalities and school districts at their next meeting and wanted to figure out how their focus group would utilize this information and proceed. It was noted that George Oros was her advisor for the project and it might be useful to bring him in to speak.

The Executive/ Legislative Relationship Focus Group discussed their meeting, with former Legislators John Nonna and Bill Burton, speaking. They discussed the current Board of Acquisition & Contracts controversy along with possible budget changes. Next, they discussed possible issues, such as contradictions, in the Charter. Finally, they discussed in great depth the current discord over the Capital Budget specifically the Capital Projects Planning Process.

The Commission noted that the Board of Legislators extended the lifespan of the Charter Revision Commission to December 2013. The Commission asked about once the recommendations is submitted, what the role of the County Executive was. The Chairman noted that at some point during 2013 the findings of the Commission would be made present.

A motion was made by Al Gatta to adjourn and seconded by Gary Zuckerman at 9:15 PM. The Chairman reminded the Commission in the change of date for the next meeting, which would be on Monday, April 23, 2012.

CHARTER REVISION COMMISSION

APRIL 23, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of March 22, and March 29, 2012.**
- 2) **Ken Jenkins, Chairman of the Board of Legislators will give his response to the Charter Revision Commission's letter request.**
- 4) **Presentation by Ed Buroughs, Commissioner of the Department of Planning.**
- 5) **Review of Charter Revision Commission Website.**
- 6) **Focus groups reports.**
- 7) **The next meeting of the Charter Revision Commission will be on Thursday, May 24, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

APRIL 23, 2012

Members in Attendance: Richard Wishnie, Raymond Belair, Jeff Binder, Alfred Gatta, Herman Geist, Derickson Lawrence, Steve Mayo, Florence McCue, Paul Meissner, Guy Parisi, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Anita Delgado, Julie Killian, John Mattis, Anne McAndrews, David Menken, Jane Morgenstern, Ronald Volino, Sam Zerka

County Staff in Attendance: Justin Adin, Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Kenneth Jenkins, Chairman of the Board of Legislators
Ed Burroughs, Commissioner of the Department of Planning

MINUTES

Chairman Wishnie called the meeting to order at 7:03 PM.

Chairman Wishnie introduced Ken Jenkins, Chairman of the Board of Legislators (BOL).

Chairman Jenkins discussed the Charter Revision Commission. He stated he likes the Charter and wouldn't like to change anything about it. He thinks things can be clearer and more consistent. Chairman Jenkins' biggest concern is issues with the execution of laws that the board adopts.

Chairman Jenkins states that there is a problem with the County Executive (CE) enforcing laws that he does not agree with. This causes the BOL to have to go to court to get declaratory judgments for the valid laws to be enforced.

Chairman Jenkins states it is his job is to protect the legislator's prerogatives when they vote. He talked about the natural conflict in government however; the board tends to act unanimously. Chairman Jenkins then opens up for questions.

The Commission asked about mandatory and permissive referendum and if they should be cleared up? Chairman Jenkins says no – NYC v. Bloomberg (2007) refines that anything that impacts the power of an elected official requires a mandatory referendum.

The second department said that this would mean you need mandatory referendum for everything. Doesn't think language needs any further refinement with regards to mandatory and permissive referendums.

The Commission members stated that it sounds like a problem of omission vs. commission. Members asked if he would be willing to tighten powers of the executive branch. Chairman Jenkins stated that question isn't on enforcement but on adoption of the law. He said if the CE doesn't want to sign a piece of legislation it becomes the law; If the CE has a concern he tells the BOL and then they have to reconsider. Chairman Jenkins spoke about the current housing settlement with the Commission.

Chairman Jenkins said he is concerned about the current situation where the BOL will pass a law and it will not be enforced because the CE doesn't agree with it and the commissioners don't enforce it because they serve at the pleasure of the CE.

The Commission asked if referendum is a concept whose time has passed. Chairman Jenkins said no not at all. He said the distinction between mandatory and permissive referendum is still important. Chairman Jenkins used the vote for term limits for elected officials in Yonkers as an example. He said the people voted on it on a mandatory referendum; He said with a permissive referendum you have to go out and get signatures to put the item on a ballot; a mandatory referendum are for items that automatically have to go on the ballot.

The Commission asked if there are other ways to do a referendum, if it is possible to do it electronically. Chairman Jenkins stated they can email, write a letter, call or come in to say they are concerned. He said New York doesn't allow referendums unless it is in the law and it is limited as to what you can have a referendum on because the elected officials should be making the decisions. A discussion ensued regarding the referendum.

The Commission asked if the overall budget process makes sense. Chairman Jenkins said yes, the process starts in May and continues through December. He explained that volunteer boards are supposed to review department budgets before they go to the CE. Chairman Jenkins finds no issue with the budget process in terms of transparency. He notes that some people are concerned because the board gets a one-month process to review everything and there is a lot that goes into that time frame. He states there are procedures in place to ensure that departments are spending money on what they were approved to spend money on. He stated the process is intense but he does not think it should be changed.

The Commission asked about the budget director and county attorney having to have dual loyalty and how this affects obtaining reliable information. Chairman Jenkins stated that the Budget Director and the County Attorney have to remember their charter responsibilities. They report to both sides. He said the Budget Director has same the power to get data as the CE and the BOL. He said the Budget Director has subpoena power. Chairman Jenkins stated that the BOL expects honest answers from the Budget director and the County Attorney but they have their own people on staff to answer their

budgetary and legal questions as well. Chairman Jenkins doesn't think that there needs to be an elected comptroller as long as information is being provided.

The Commission asked what the Commission can do to make the CE and the BOL get along. Chairman Jenkins states you can't legislate how people are going to interact. He says the problem isn't a matter of dislike but a matter of allocation of authority. He said everything is publicized now and he thinks the tensions aren't as bad as media might make it out to be.

The Commission asked what happens when one party doesn't execute law. Chairman Jenkins responded that the third branch of government (judiciary) steps in.

A discussion ensued regarding lawsuits and bringing the courts in to solve the problems of the Executive and Legislative branches.

The Commission asked if the charter be amended so that the BOL gets their own counsel. Chairman Jenkins stated that the BOL should be able to have counsel and the County Attorney should continue to just represent the county. Chairman Wishnie thanked Chairman Jenkins for his time.

Chairman Wishnie stated that there is not a quorum present for the approval of the voting of minutes.

Chairman Wishnie introduced the Commissioner of Planning, Ed Buroughs, who gave a PowerPoint presentation about the duties of the Planning Department. Commissioner Buroughs stated that the focus of the Planning Department at this time is focused largely on flooding and not duplicating services. He further stated that the Planning Department's board is a strong one. A copy of the PowerPoint presentation is on file and available for review.

Commissioner Buroughs states there is a focus on the basis for shared services among municipalities. He said this includes the planning base studies pilot project which Rye Brook is a test center for. He said they are gathering data and trying to make the data the county has available to the municipalities.

The Commission asked if there is anything in the charter that is a thorn in the side of the planning committee. Commissioner Buroughs stated that right now the referral situation is a problem; otherwise there aren't a lot of problems that arise under the charter. A discussion ensued regarding the referral process.

The Committee discussed the Capital plan, capital budget, the planning board, and public information with the Commissioner.

Chairman Wishnie stated that the next meeting will be on May 24th. With a motion by Gary Zuckerman seconded by Jeff Binder the Charter Revision Commission adjourned at 8:50 pm.

MAY 24, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) Approval of minutes of March 22, March 29, and April 23, 2012.**
- 2) Norman Jacknis, Director, IBSG Public Sector, CISCO Systems, and former CIO for Westchester County will speak to the Commission.**
- 3) Focus groups reports.**
- 4) The next meeting of the Charter Revision Commission will be on Thursday, June 28, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

MAY 24, 2012

Members in Attendance: Richard Wishnie, Raymond Belair, Jeff Binder, Alfred Gatta, Julie Killian, Derickson Lawrence, Steve Mayo, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Vincenza Restiano, Paul Windels, Gary Zuckerman

Absent Members: Herman Geist, John Mattis, Anne McAndrews, Guy Parisi, Bertrand Sellier, Matthew Thomas, Ronald Volino, Sam Zerka

County Staff in Attendance: Justin Adin, Stacey Dolgin-Kmetz, Chris Crane, Kerriann Stout, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Norman Jacknis

MINUTES

Chairman Wishnie called the meeting to order at 7:03 PM.

With a motion by David Menken, seconded by Gary Zuckerman the minutes of March 22nd, March 29th and April 23rd were a vote of 14-0.

Chairman Wishnie introduced Norm Jacknis, former Westchester County CIO. Mr. Jacknis now works at CISCO, a pro bono think tank working with governments locally and all over the world. Mr. Jacknis was the first CIO of Westchester.

Mr. Jacknis gave some opening remarks on sharing technology services with local municipalities. He stated that shared services reduce costs and allow for better software. Mr. Jacknis stated that Westchester has a fairly large technology footprint. He stated that the increase in technology has allowed people to work outside the office. Mr. Jacknis further discussed how technology affects the budget by setting up a rolling budget and a fixed budget.

Mr. Jacknis discussed the benefits of technology in terms of citizen engagement. He stated that taking the work out of the office building and in to the community can offer better services for less money. A discussion on participatory government and getting the citizen involved ensued.

The Commission asked about using technology to get people to comment on the budget. Mr. Jacknis stated that this may be done online. He stated that the budget would go online and people could comment on it. It would be monitored for spam.

The Commission discussed the benefits of “open data”. Mr. Jacknis stated that it is a good idea for data to be available but that simply making it available isn’t enough because of the high volume. The data needs to be presented to the public in a way that people can understand it.

Jeff Binder asked if there are areas of technology that can be monetized to the benefit of the county. Mr. Jacknis says this is a possibility but there have been some pitfalls in attempting to do so in the past.

Vincenza Restiano asked whether technology has created more poverty in that those who can’t get a computer are at a disadvantage. Mr. Jacknis says that the system isn’t perfect but it actually helps some low-income families get access to technology.

The Commission asked whether there is a chapter in the charter on technology. Mr. Jacknis stated yes, that the chapter came into the charter when the CIO position was created. He further stated that the Department of Information and Technology provides technology services for all the departments in the county.

The Commission asked whether there are any provisions in the charter for shared services of IT resources. Mr. Jacknis stated that there is no provision in the charter but IT would provide service agreements to the local municipalities. Mr. Jacknis said it would be helpful to the IT department if it could somehow be put in the charter to make the contracts easier. He suggests a way for them to not have to go through the acquisitions and contracts board.

Discussion ensued on light path system and other government technologies.

Chairman Wishnie spoke to the Commission about changing the voting quorum in order to be able to take actions. Moved by Gary Zuckerman, seconded by Paul Meissner, the Commission approved a new voting quorum of 12 members with a vote of 14-0.

Vincenza Restiano gave an update on the Local Government/County Government Focus Group and invited everyone to attend their meeting next Thursday the 31st at 530 here at the Board of Legislators to hear from a panel of county managers and advisors.

Florence McCue gave an update on the Charter and Codes Focus Group and invited everyone to attend their next meeting on June 13th at noon where they will hear from former County Attorney Charlene Indelicato.

Jeff Binder gave an update on the Budget and Finance Focus Group. He stated that the next meeting date has yet to be determined

Al Gatta gave an update on the Executive/Legislative Relationship Focus Group, stating that they continue to meet with current and former county legislators to hear their opinions on what could be improved.

Chairman Wishnie stated that the next meeting will be on June 28th. With a motion by Gary Zuckerman seconded by Paul Meissner the Charter Revision Commission adjourned at 8 pm.

CHARTER REVISION COMMISSION

June 28, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of May 24, 2012.**
- 2) **Thomas Lauro, Commissioner of the Department of Environmental Facilities will present to the Commission.**
- 3) **Joe Stout, Executive Director of Friends of Parks, and former County Parks Commissioner will address the Commission.**
- 4) **Focus groups reports.**
- 5) **The next meeting of the Charter Revision Commission will be on Thursday, July 26, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

JUNE 28, 2012

Members in Attendance: Richard Wishnie, Alfred Gatta, Derickson Lawrence, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Jeff Binder, Herman Geist, Julie Killian, John Mattis, David Menken, Bertrand Sellier, Matthew Thomas, Ronald Volino, Sam Zerka

County Staff in Attendance: Justin Adin, Chris Crane, Kerriann Stout, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Thomas Lauro, Joe Stout

MINUTES

Chairman Wishnie called the meeting to order at 7:00 PM.

With a motion by Paul Meissner, seconded by Gary Zuckerman the minutes of March 24th, 2012 were approved with a vote of 12-0.

Chairman Wishnie introduced the first guest speaker, Commissioner Thomas Lauro, Department of Environmental Facilities.

Commissioner Lauro presented a power point, which is available for your review.

Commissioner Lauro stated the department of environmental facilities deals with wastewater, water and solid waste. These are special district functions, which are not part of the county budget. Funds stay within district. The wastewater division is the largest division.

Commissioner Lauro stated there are 13 sewer districts, 7 WWTPS, 43 Pump stations, 200 miles of sewers. He presented a slide on the 2011 performance, which showed that Yonkers deals with the most waste.

The commission asked whether Yonkers was the biggest part by design. Commissioner Lauro stated it is by topography – it naturally made more sense to give the most to Yonkers.

Commissioner Lauro stated that his department does not treat the whole county. He stated other districts have private or well-water. He said they serve 600,000 people and if you are not part of a sewer district than you are not taxed.

Commissioner Lauro presented a slide on the wastewater-operating budget that stated:

- Operating costs are consolidated for 13 special districts
- 183 MDG total design capacity
- Treated 59,551,200,000 gallon treated in 2011
- 0.00015/gallon – less than a penny per flush

Commissioner Lauro further stated that non-profits pay sewer tax and that the sewer tax is deductible on your taxes.

A discussion ensued on capital projects. A slide labeled capital projects delineates how much money is spent on capital projects.

Commissioner Lauro stated that there are two County Water Districts – CWD #1 and CWD #3 and that ultraviolet light disinfection is required now at water treatment plants.

The Commission asked for a history as to why the sewer district is so small. A discussion ensued.

The Commission asked if there is any concern that we might run out or short of water. Commissioner Lauro said not unless there is a draught which is possible. He further stated the city of NY and Westchester County keeps trying to educate the population on water conservation and that water meters reduced water use by approximately one third.

Commissioner Lauro stated they need to build a large pumping system because all the water has to be UV treated. A discussion on this ensued.

Commissioner Lauro informed the Commission that the Solid Waste Management Refuse Disposal District No. 1 only contains some of the municipalities.

Lester Steinman gave out the template for information gathering for the focus groups in order to create their final report. He further handed out a list of target dates for deadlines on the reports. Copies are available.

Chairman Wishnie introduced former Parks Commissioner Joe Stout; currently he is the director of Friends of Parks.

Mr. Stout stated that he is representing himself as the former parks commissioner. He showed a short video that is available for your review.

Mr. Stout talked about starting a Parks district – similar to that of the sewer district. He thinks it is a long term way to protect what is clearly one of the defining elements of Westchester County, physically.

Mr. Stout stated the board of friends of parks just recently commissioned an economic impact study and the parks generate 183 million dollars a year in economic impact. He further stated the parks bring tax revenue because of the investments in it. He continued by saying that parks are a valuable asset that bring social and economic interest.

Mr. Stout informed the commission that entire parks budget is about \$70 million. \$52 million is the operating budget and \$19 million is the misc budget. Stout stated that of that, only \$34 million comes from taxes, the rest comes from fees, charges, licenses, permits, etc. The \$34 million represents employee benefits and debt services, 15 parks, 18,000 acres of open space, 6 golf courses, and Playland.

The Commission asked what the advantage of having a Parks District would be. Mr. Stout said he believes it will take the parks department out of the general fund fight. He states 75% of people in the county use the parks.

Mr. Stout recommended that the district be under the taxing power of the county and that it work exactly like the sewer system.

A discussion ensues about the advantage and disadvantages to having a park district.

The Commission asked why parks should get a parks district as opposed to other departments. Mr. Stout stated that Parks brings in a lot of private sector business.

Mr. Stout said he is not talking about consolidation just about breaking out of the general fund. Mr. Stout said he has examples of other parks districts he can provide.

Chairman Wishnie stated that the next meeting would be on July 26th, 2012.

Mr. Gatta stated that the Executive/Legislative Relationship Focus group will meet on September 27th at 6pm.

With a motion by Paul Meissner seconded by Gary Zuckerman the Charter Revision Commission adjourned at 8:10 pm.

CHARTER REVISION COMMISSION

September 27, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
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JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of June 28, 2012.**
- 2) **Discussion with Nick DeSantis of O'Connor Davies Munns & Dobbins LLP**
- 3) **Attendance of Commissioner Members to date.**
- 3) **Focus groups reports.**
- 4) **Review of calendar for future meetings.**
- 5) **The next meeting of the Charter Revision Commission will be on Thursday, October 25, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

SEPTEMBER 27, 2012

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Derickson Lawrence, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Ronald Volino, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Julie Killian, John Mattis, David Menken, Sam Zerka

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Nick DeSantis

MINUTES

Chairman Wishnie called the meeting to order at 7:10 PM.

With a motion by Paul Meissner, seconded by Guy Parisi the minutes of June 28th, 2012 were approved with a vote of 16-0.

Chairman Wishnie introduced the guest speaker, Nick DeSantis, Partner at O'Connor Davies Munns & Dobbins LLP, who also serves as the county auditor.

Mr. DeSantis described the County budget process and his concerns about the procedures.

Mr. DeSantis stated that because the County Executive releases his budget after Election Day, on November 15th the legislature is given a short time to review, make changes too, and approve the entire budget for the following year. Mr. DeSantis stated that he feels the Commission should consider this and suggest a way to provide the legislature more time to review the budget. He suggested that instead of November 15th, maybe the budget has to be delivered to the legislature on the first Monday after Election Day. A discussion ensued regarding the county budget calendar.

Mr. DeSantis discussed in further detail the problems associated with the current budget calendar and the deadlines for additions and deletions from the budget. He stated that there are instances where they are able to find money or mistakes in the budget but the

legislature cannot make the appropriate changes to the budget because a deadline has passed.

The Commission agreed as a group that the current process is very restrictive and should be changed. Members asked the Commission Counsel to provide examples of other counties budget procedures.

A lengthy discussion ensued regarding the timeframe and deadlines for additions and subtractions as well as the adoption of the final budget.

Chairman Wishnie suggested that the Commission ask the County Executive and the Budget Director their thoughts on the current procedure to get additional feedback. Chairman Wishnie stated that he will work with Mr. Binder and his Budget & Finance Committee on a letter to send to the County Executive and Budget Director.

The Commission briefly reviewed the attendance of the Members at full Commission meetings.

The Commission briefly reviewed the calendar for the duration of the term of the Charter Revision Commission.

Mr. Gatta stated that the Executive/Legislative Relationship Focus Group met today and began reviewing possible ideas for the focus group report.

Ms. Restiano stated that the Local Government-County Government Focus Group met today and asked that all of the minutes from the previous meetings be sent to the group members. She asked that the members review these minutes and come up with a list of questions and they will schedule another meeting to go over them.

Mr. Binder stated that it has been a busy year for the Budget & Finance Focus Group and they are ready to begin working on their group report.

Mr. Parisi and Ms. McCue gave an overview of the meetings and speakers that the Charter & Codes group has had and stated that they will begin compiling ideas for their group report at their next meeting on October 3, 2012 at noon in the Board of Legislators Library.

Chairman Wishnie stated that the next meeting will be on October 25th, 2012.

With a motion by Guy Parisi seconded by Gary Zuckerman the Charter Revision Commission adjourned at 8:20 pm.

CHARTER REVISION COMMISSION

October 25, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of September 27, 2012.**
- 2) **Jay Pisco, Commissioner of the Department of Public Works & Transportation will present to the Commission.**
- 3) **Focus groups reports.**
- 4) **The next meeting of the Charter Revision Commission will be on Thursday, November 29, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

OCTOBER 25, 2012

Members in Attendance: Richard Wishnie, Jeff Binder, Julie Killian, Steve Mayo, Anne McAndrews, Florence McCue, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Bertrand Sellier, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Alfred Gatta, Herman Geist, Derickson Lawrence, John Mattis, Paul Meissner, David Menken, Matthew Thomas, Ronald Volino, Sam Zerka

County Staff in Attendance: Justin Adin, Stacey Dolgin-Kmetz, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Jay Pisco, Commissioner, Department of Public Works & Transportation

MINUTES

Chairman Wishnie called the meeting to order at 7:20 PM.

With a motion by Guy Parisi, seconded by Gary Zuckerman the minutes of September 27th, 2012 were approved with a vote of 12-0.

Chairman Wishnie introduced Jay Pisco, Commissioner of the Department of Public Works & Transportation.

Commissioner Pisco broadly discussed the various responsibilities and functions of the department which include transportation related services, the coordination and oversight of construction projects, and the maintenance of County services and infrastructure.

The commission asked about the function and scope of County roads. Commissioner Pisco discussed the Department's responsibilities in relation to the determination of County roads and who the authority of the road falls to, along with the maintenance of the roads.

The Commission asked what would the Charter Revision would be able to do to help make the department run more effectively. Commissioner Pisco noted that on projects greater than 10 million dollars, the project must be passed by a public referendum, which in today's economy is a relatively smaller figure than in the past and can hold up projects. The commission discussed the legality of this.

Commissioner Pisco discussed the County bus system, noting that ridership is generally good. He stated that they change the bus routes roughly three times a year based on ridership and the various seasons.

Chairman Wishnie asked if we receive state aid for the maintenance of the County fleet. The commissioner discussed the state of the County fleet, along with the costs and efforts for maintaining the fleet and new initiatives being taken to improve service. The commission also discussed specific routes and stops within the County.

The commission asked if there were any other initiatives within the County with the same principles as the County Road system. The Commissioner did not believe there were any present. The conversation shifted into a discussion about the development on open space parkland property.

Chairman Wishnie asked if the airport makes money for the County. Mr. Pisco stated that due to the federal funding receive to help offset the costs of maintenance and improvement projects the airport does make money. He stated that the County does in fact make money from the airport and that the Department just signed a contract to begin the new master plan for the future of the airport.

The Commission asked what about the Airport Advisory Committee. The commissioner stated that they meet in order to discuss the airport, often inviting the public for their input. They present financial reports and address complaints and concerns. It was noted that the airport fund is a separate entity from the Public Works and Transportation budget.

The commission also discussed airport security. Commissioner Pisco stated that the TSA handles the majority of the security functions. The commission also went on to discuss the departure of Air-Tran from the Airport and the possibility of bringing in new airlines.

The Commission discussed the merger of Public Works and Transportation in 2010 with Commissioner Pisco. Commissioner Pisco stated that when he assumed his position the Department had already been merged, but that he thought it worked well as it currently is. Budget-wise Transportation and Public Works are separate, but he is responsible for both. The commission went on to discuss the breakdown of Department leadership.

Mr. Zuckerman asked about the ridership of bus routes in general around the county. The Commissioner gave the example that with numerous recent school closings they have had overflow on certain routes; while there have been a drop-off on others.

Chairman Wishnie asked if the buses are still involved in the emergency plan for Indian Point. Commissioner Pisco stated that yes they are. He explained that if there is a possibility of an evacuation the Commissioner will contact Liberty Lines and order them to bring all of the buses in. He said the buses will drop off their passengers, not take any new ones and head back to the depot to fuel up and if needed head to Indian Point to evacuate.

Mr. Zuckerman stated that the Executive/Legislative Relationship Focus Group narrowed down their issues to approximately seven for the final report and will continue to work on them.

Ms. Restiano stated that the Local Government-County Government Focus Group met today and asked that Randy and Gary submitted lists of suggested items for the report and the group is going to continue to review them and use them for their final report.

Mr. Binder stated that the Budget & Finance Focus Group will meet next Thursday November 1st at 6:30 and Legislator Sheila Marcotte will speak to the group about her suggested changes for the budget process.

Mr. Parisi stated that he and Ms. McCue met for the Charter & Codes group and discussed their list of issues. Ms. McCue stated that since then the Playland proposal has come up and they are going to watch to see what the Board of Legislators does and analyze everyone's actions before making a recommendation on Playland and its processes.

Chairman Wishnie discussed the schedule for the Commission going forward, stating that the plan is to start meeting twice a month in order to get everything done. Ms. McCue suggested that the full Commission meet once a month and the Steering Committee meet once a month instead.

Chairman Wishnie stated that the next meeting will be on November 29th, 2012.

With a motion by Gary Zuckerman seconded by Steve Mayo the Charter Revision Commission adjourned at 8:10 pm.

CHARTER REVISION COMMISSION

November 29, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of October 25, 2012.**
- 2) **Ralph Butler, former Commissioner of the Department of Public Works & Transportation will present to the Commission.**
- 3) **Peter Eschweiler, former Commissioner of the Planning Department (1969-1991), and former Chair of the Westchester County Flood Action Task Force (2007-2011), will speak to the Commission.**
- 3) **Focus groups reports.**
- 4) **The next meeting of the Charter Revision Commission will be on Thursday, December 20, 2012.**

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

MINUTES

NOVEMBER 29, 2012

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Florence McCue, Paul Meissner, Jane Morgenstern, Bertrand Sellier, Paul Windels, Ronald Volino, Gary Zuckerman

Absent Members: Raymond Belair, Julie Killian, Derickson Lawrence, John Mattis, Steve Mayo, Anne McAndrews, David Menken, Matthew Thomas, Guy Parisi, Vincenza Restiano, Sam Zerka

County Staff in Attendance: Justin Adin, Chris Crane, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Ralph Butler, Former Commissioner, Department of Public Works
Peter Eschweiler, Former Commissioner, Department of Planning

MINUTES

Chairman Wishnie called the meeting to order at 7:24 PM.

Chairman Wishnie introduced Peter Eschweiler, former Commissioner of the Department of Planning, and former Chair of the Westchester County Flood Action Task Force, who gave a brief history of his tenure with the County.

Mr. Eschweiler stated that one of the primary issues the planning department was tasked with was to address critical housing and health issues within the County. The department handled this by signing the County onto several federally funded programs and studies over the course of the next decade, laying the conditions for the needs of the housing market.

Mr. Eschweiler said they looked to see if there was a link between poor housing and poor health within a population. They determined that higher income on average equated to better health.

Mr. Eschweiler discussed a legal case in New Castle the 1970s which looked at municipal planning regarding housing and the subsequent decision, which essentially compelled municipalities to strongly look at the housing needs of their respective areas and provide different types of housing such as apartments.

He also discussed various land use systems, such as the Geographic Information Systems, the Airport Advisory Board, the Flood Action Task Force which later evolved into the Stormwater Advisory Board, the Citizens' Advisory Board, and the cooperation between departments which enabled the success of these various programs. He briefly described the history and functions of each of these systems.

He went on to state the inner workings of the Planning Department and the relationship between the County and the municipalities. Initially there was no formal County policy with regard to funding municipal projects, although this later changed as projects grew larger and more complex. A reconnaissance plan looked at the problem, several proposed solutions, and the most efficient way at implementing said measures.

Mr. Eschweiler opened the floor for questions, to which Mr. Gatta commented on the Stormwater legislation which in essence forced the County and municipalities to work together for an overall watershed plan to prevent municipalities from competing and to streamline the process. The incentive is potential 50% county funding for projects.

Mr. Steinman asked Mr. Eschweiler to comment on the relationship between the County Planning Board and local municipal planning and how that has worked out in his opinion. Mr. Eschweiler stated that the County Planning Board has review authority over certain municipal zoning actions or site plan approvals along property touching various County owned properties or facilities, the municipality can't take action until a review by the County Planning Board has been conducted and their findings have been made known.

Mr. Meissner asked if they had jurisdiction over municipal projects, to which Mr. Eschweiler replied that they did not, nor did they have the power to veto. If the County Planning Board gave a negative review of the project's impacts, the municipality could "override" their recommendation with a majority vote.

Mr. Gatta asked what the Planning Board's role was in the Capital Projects Process. Mr. Eschweiler described the review role the Board has over projects submitted by other County Agencies.

Mr. Zuckerman asked if Mr. Eschweiler sees increased possibilities for County involvement in local storm water management issues. Mr. Eschweiler stated that he believed the County could.

Chairman Wishnie thanked Mr. Eschweiler for his time and asked if he would be open to coming in further down the road and helping out the committee.

Chairman Wishnie introduced Ralph Butler, Former Commissioner of the Department of Public Works who gave a history of his tenure with the County.

Mr. Butler discussed the capital projects process along with the various types of capital projects the department could undertake. He discussed the responsibilities of the Public Works Department, which in essence boiled down to maintaining County infrastructure. His department had to look at a “wish list” of capital projects of all of the County Departments, along with their potential costs and benefits, weeding out projects that wouldn’t be feasible for the County in the long run and giving the go ahead to sound projects.

Chairman Wishnie asked Mr. Butler to discuss the Capital Projects Committee. Mr. Butler stated that there were three levels to the committee, describing the structure and functions of each; the first being the working committee, the executive committee, and then finally the actual Capital Projects Committee.

Mr. Butler further explained the planning process and method behind the capital projects budget. He stated that you have to plan five years ahead for capital projects before any funding became available, and that when funding did become available it was only guaranteed for the first year of the projects.

Mr. Butler explained that every project undergoes intense scrutiny to make sure they were being well thought out and the funding went to the right projects at the right time. Chairman Wishnie noted that the point was that there are rigorous controls in place in the Capital Planning Process. Mr. Butler went on to reinforce this point stating that the County likes to maintain “level” debt year to year and avoid large fiscal surprises. Certain projects under certain circumstances necessitated projects being expedited, as was the case after 9/11 with numerous security projects being fast-tracked.

Mr. Binder asked if Mr. Butler agreed with the time constraints to the Board of Legislators in regards to Board additions to the Capital Projects Budget. Mr. Butler stated that in the past, the Board had a specific period of time to add or delete projects. Chairman Wishnie referred to the upcoming Monday which would be the only time the Board has to add to the Capital Projects schedule. Mr. Butler stated that there was never any argument as to the time frame when he was Commissioner.

He went on to answer the Commission’s question as to whether he treated the Board of Legislators as another County Department or Agency to which he replied he did not, but at the same time, he reiterated that there was a set process in place. Mr. Butler stated that he agreed that the Board was the Check and Balance to the Administration’s power and should in fact have the final say on projects.

Mr. Butler described the functions and inner workings of Public Works, along with the evolution of the relationship between Public Works and the Board of Acquisition of Contract.

Finally, Mr. Butler briefly discussed various changes he would implement with the Professional Prequalification Board and the Professional Selection Board.

Chairman Wishnie thanked Mr. Butler for his time and went on to state that it is extremely important that the steering committee meet very soon, possibly next week.

The Commission discussed the focus group reports and the upcoming deadline at the end of the year.

Chairman Wishnie stated that the next meeting will be on December 20th, 2012, however Committee staff will poll members for attendance.

With a motion by Florence McCue seconded by Gary Zuckerman the Charter Revision Commission adjourned at 8:33 pm.

CHARTER REVISION COMMISSION

December 20, 2012

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of October 25, 2012 & November 29, 2012.**
- 2) **Draft Focus Group reports.**
- 3) **Review of the 2012 budget process.**
- 4) **The next meeting of the Charter Revision Commission will be on Thursday, January 10, 2012.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

DECEMBER 20, 2012

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Julie Killian, Derickson Lawrence, John Mattis, Steve Mayo, Paul Meissner, Jane Morgenstern, Vincenzo Restiano, Matthew Thomas, Paul Windels

Absent Members: Raymond Belair, Anne McAndrews, Florence McCue, David Menken, Guy Parisi, Bertrand Sellier, Ronald Volino, Gary Zuckerman, Sam Zerka

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Commission Counsel: Lester Steinman

MINUTES

Chairman Wishnie called the meeting to order at 7:03 PM.

Chairman Wishnie stated that approving the minutes from prior meetings would be deferred until a later meeting when they had a quorum. He went on to discuss the agenda for the night which included reports from the focus groups, their findings, and in what direction they would take things.

Mr. Gatta discussed the items that will be included in the Executive-Legislative Focus Group Report at length with the commission. The five issues their focus group kept coming across were condensed into a report by Mr. Zuckerman.

The first issue was regarding the actual structure of the County Government in an attempt to make things more efficient and try and smooth relations between the various branches of government. Mr. Gatta went on to discuss the ideas regarding proposed changes to the County Government. The second issue was the assessment function. The people the focus group interviewed had very mixed reviews regarding the current procedures. Mr. Gatta discussed the group's recommendations. He stated that the last time a County-Wide Reevaluation occurred was in 2011 and that tax certioraris equaled around \$55 million. The Commission mentioned other concerns about possible costs for litigation and other issues with this at length. The third issue was regarding the position of County Clerk, suggesting that it be changed to an appointed position instead of an elected position. Mr. Gatta said the fourth area of concern is that since 1937, there have only been two Charter Review Commissions. He stated that a standing commission at the direction of the County Executive and the Board of Legislators may be better. The last issue addressed appointments process, and the problems that have arisen in recent years.

Mr. Binder discussed the five issues that the Budget & Finance Focus Group is looking for their report. He stated the first one is the timing of the fiscal year, and the possibility of moving the fiscal year to match that of the State's, which starts on July 1st. Mr. Binder said that the second suggestion may be to extend the time period from the time the County Executive releases the budget to the Legislature, and the date that it is required to be completed, as it is a short time to properly review such a large budget. The third item that are considering is to require quarterly reports of the budget. He stated that another item may be looking at who has access to the departmental funding requests and clarifying it in the charter. Mr. Binder stated that they may also include the creation of an independent budget office stating the problem of the Budget Director having loyalty to both branches of government.

Mr. Steinman provided the issues that are currently included in the Charter & Codes Focus Group Report draft. He started that the current issues being looked at included the role of the County Attorney, specifically discussing the issues of conflict of interest and separate representation for the Board of Legislators. The second item which, Mr. Steinman noted, he has not been privy to is concerning the establishments of a parks district. The third item related to one of the issues Mr. Gatta brought up regarding the clarification of the confirmation process. Another issue was the terms of the County-Wide Reassessment. Finally, several issues stemming from the findings of the 1988 Charter Revision Commission included updating the provisions of the County Tax Law, the County Appointments Law, and recognizing the function of the Department of Parks, Recreation, & Conservation as an oversight committee for Playland.

Mr. Steinman provided the issues that the Local Government-County Government Focus Group has been looking at included: creating a separate office specifically for intergovernmental relations, formalizing the current Council of Governments by including language in the Charter, along with shared services, specifically mentioning shared law enforcement offices, an office to work directly with local governments for administrative purposes, and finally the mandate for the local guarantee of County Taxes.

Mr. Steinman briefly discussed the overall focus and direction of the focus groups in relation to the goals of the Charter Revision Commission as a whole.

Mr. Geist asked if any of the focus groups had considered the compensation of elected officials, stating that every two years, an independent panel should create the salary requirements and provisions for legislators. A discussion ensued regarding the responsibilities of the focus groups. Mr. Binder stated the need for the Commission to bring in people outside of government to provide input.

A Commission member noted certain redundancies between the focus groups, such as the issue of County-Wide Reassessment. Two years ago, it was put before the governor who vetoed it. Mr. Binder noted that County-Wide Reevaluation was in fact different in establishing protocol from County-Wide Reassessment. A discussion ensued on the various impacts that would occur from these changes.

Chairman Wishnie stated that the next meeting will be on January 10th, 2013. With a motion by Mr. Gatta seconded by Mr. Thomas, the Charter Revision Commission adjourned at 7:50 PM.

CHARTER REVISION COMMISSION

January 10, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
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GUY T. PARISI, ESQ.
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VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of October 25, 2012 & November 29, 2012 & December 20, 2012.**
- 2) **Report of the Steering Committee meeting of January 10, 2013.**
- 2) **Focus Group breakout session.**
- 3) **The next meeting of the Charter Revision Commission will be on Thursday, January 24, 2012.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

JANUARY 10, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Derickson Lawrence, John Mattis, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Ronald Volino, Gary Zuckerman, Paul Windels

Absent Members: Raymond Belair, Julie Killian, Guy Parisi, Sam Zerka

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto, Justin Adin

Commission Counsel: Lester Steinman

MINUTES

Chairman Wishnie called the meeting to order at 7:06 PM.

With a motion by Mr. Gatta, seconded by Mr. Lawrence the minutes of October 25, November 29, and December 20, 2012 were approved with a vote of 14-0.

Chairman Wishnie stated that there was a Steering Committee meeting earlier in the day. He went over the procedures the Commission will follow going forward. Chairman Wishnie stated that the Commission will be looking to hire an additional consultant to help the Commission complete its work, Dr. Jerald Benjamin. Mr. Steinman gave a brief history of Dr. Benjamin's work experience and accomplishments, along with how he would help the Commission accomplish its work.

Chairman Wishnie discussed planning a retreat sometime in March or April and what he wanted to accomplish. Mr. Meissner asked about the procedure of hiring Dr. Benjamin. Chairman Wishnie stated it would have to go through the Board of Acquisitions & Contracts, and was happy to report support from both the County Executive and the Board of Legislators. Mr. Meissner suggested that his curriculum vitae be shared before any decision is made, which Mr. Steinman stated he would forward to the Commission.

The Commission asked how Dr. Benjamin's function would differ from that of Mr. Steinman's role. Chairman Wishnie stated that Mr. Steinman brings legal expertise to the Commission whereas Dr. Benjamin's expertise is in public policy, having already worked on several charter revision commissions in the state. He would in essence help the commission facilitate their job more efficiently and thoroughly.

The Commission asked about the mandate regarding the Commission's report to the Board of Legislators. When the final report is presented to the Board, the Board has ninety-days to vote yea or nay on the Commission's recommendations. The report will be received by the current Board in December, however the newly elected Board will vote on it the following year during the new legislative session.

Mr. Lawrence brought up the point that they need to follow the format that has already been laid out in order to proceed efficiently and avoid issues later on down the road. Chairman Wishnie stated that the materials received are approved documents stating the committees' issues and recommendation for the entire Commission to review it; just because a focus group forwards an issue doesn't necessarily mean there is full agreement. Mr. Lawrence clarified he meant the actual formatting of the documents.

Chris Crane stated that as the issues have been under review and refined for some time now, a set group of issues needed to be put forth so as to not dilute the Commission's message. There was a discussion as to whether or not the steering groups' reports are made public. Chairman Wishnie briefly summed up the Commissions plans for the near future.

Chairman Wishnie stated that the next meeting will be on January 24th, 2013.

With a motion by Gary Zuckerman seconded Mr. Lawrence by the Charter Revision Commission adjourned at 7:30 PM.

CHARTER REVISION COMMISSION

January 24, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
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FLORENCE McCUE
Elmsford

PAUL MEISSNER
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JANE MORGENSTERN
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GUY T. PARISI, ESQ.
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VINCENZA A. RESTIANO
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RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of January 10, 2013.**
- 2) **Presentation by Commission Member Randy Sellier on a proposed amendment to allow for citizens initiatives for the enactment of local laws.**
- 2) **Presentation of the Charter & Codes Focus Group Final Report.**
- 3) **The next meeting of the Charter Revision Commission will be on Thursday, February 7, 2013.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

JANUARY 24, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Gary Zuckerman

Absent Members: Raymond Belair, Alfred Gatta, Herman Geist, Julie Killian, Derickson Lawrence, John Mattis, Steve Mayo, Ronald Volino, Paul Windels Sam Zerka

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Commission Counsel: Lester Steinman

MINUTES

Chairman Wishnie called the meeting to order at 7:15 PM.

With a motion by Mr. Parisi, seconded by Mr. Meissner, the minutes of January 10, 2013 were approved with a vote of 14-0.

Bertrand Sellier gave a presentation on an idea he would like the Commission to consider for the final report as a charter change. The proposal is to allow citizen initiatives for enactment of local laws. A copy of the presentation is attached. The presentation included amending the charter to allow more items to go to public referendum. Mr. Sellier stated that the Commission would need to think about how many signatures would be needed for petitions as well as the appeals process.

The commission discussed the proposal. Mr. Zuckerman, Mr. Steinman, and Chairman Wishnie all stated that if the Commission endorsed Mr. Sellier's proposal, the crafting of the specific legislation would be best left to the Board of Legislators.

Ms. Restiano stated that she supports the idea whole heartedly.

Ms. McAndrews asked about the 90 day requirement for items to be put back on the floor of the Legislature. Stacey Dolgin-Kmetz explained that by the Board of Legislators rules, any item that is referred to committee on the floor of the Board is required to come out of committee and back to the floor of the Board for a vote within 90 days. She stated however that this rule is not enforced at the legislature.

Ms. McCue asked everyone what their experience has been with home rule messages. Chairman Wishnie stated that his experience as a legislator is that home rule messages receive a great response from the state.

Mr. Zuckerman stated that if the Commission decides to consider Mr. Sellier's proposal it will need to be structured with the specific direction the Commission would like it to take.

Chairman Wishnie stated that any focus group that has an interest in this issue can take it up and incorporate it into their final report. Mr. Steinman stated that he believes it should be a conversation for the whole Commission rather than going to a focus group at this point when the reports are already in process.

Ms. Restiano stated that she believes we are in a different climate than we were when the 1988 report was written and she feels we should be firmer in our report and go out and get public support for our recommendations.

Several members attended the Empire Center's meeting at the County Center last week. Mr. Meissner stated that it was a very interesting look at projections and how important it is to have them as far out as four years. He said EJ McMahon spoke and he was very impressive. Mr. Thomas agreed that it was a very interesting presentation with regard to finances. Mr. Meissner and Mr. Thomas stated that he discussed school districts and pension costs. Chairman Wishnie stated that Mr. McMahon will be speaking at our next Commission meeting. The Commission discussed the feasibility of making financial projections for government.

Ms. McCue gave a presentation on the draft final report for the Charter & Codes Focus Group. She provided the first nine pages of the report to Commission members as well as a list of issues. Both documents are attached.

Ms. McCue stated that after meeting with the current County Attorney and several former County Attorney's they all stated that they did not have a problem working for both the County Executive and the Board of Legislators because, as they stated, they worked for the County as a whole. Ms. McCue stated that aside from the testimony, the Focus Group as well as the Commission is aware that there have been many problems recently with the relationship between the County Attorney and the Board of Legislators. Ms. McCue stated that as a result they are recommending in the report as their number one issue that the Commission discuss whether the Board should be allowed to hire their own attorneys to represent them. Mr. Binder stated that an attorney owes their loyalty to their client and when you have two clients, which often happens when the County Executive and the Board of Legislators do not agree, where does the attorney's loyalty lie? Counsel Dolgin-Kmetz stated that the current issues are not the only ones that the County has faced due to this dual allegiance to both bodies of government. Counsel Dolgin-Kmetz described a time in the past with a different County Executive and different Board of Legislators where there was a disagreement and the County Attorney represented the County Executive and the Board of Legislators had to hire its own counsel.

Counsel Steinman stated that when he was with the County Attorney's office if there was a dispute between the two branches the County Attorney did not represent either one of them and they both got outside counsel in order to preserve the County Attorney's relationship with both bodies of government going forward.

Mr. Meissner suggested mandating a mediation process. Ms. McCue stated that they discussed this idea in the Focus Group and came to the conclusion that separate attorneys would still be needed and the outcome could be the same but just take a longer time. Several members agreed.

Counsel Steinman explained that the role of the County Attorney is to provide an objective legal opinion based on the law as it is written. He said the CA is not to give the opinion of the County Executive or the Legislature. He said however, that once the opinion is rendered, even though it is a binding opinion, you cannot force “the client” to take your advice and the legislature or County Executive can choose to enact a policy which does not agree with the opinion. He said the only time there is a situation where the CA cannot represent either body is when there is litigation between them. A discussion ensued. There was general agreement that the charter needs to be clarified as to the hiring of attorneys for the legislature.

Ms. McCue stated that included in the report is the recommendation to bring the discussion of allowing for additional attorneys for the Board of Legislators to the full Commission.

Counsel Dolgin-Kmetz explained that the idea over the past few years has been that the attorneys hired by the Board of Legislators provide legal research for the legislature, but they do not replace the County Attorney and do not submit official legal opinions. Only the CA can provide those.

Ms. McCue stated that number 8 on the list of issues is to somehow provide one collective list of the services the county provides. Ms. Morgenstern agreed stating that his would be helpful to tax payers who question what the county does for them and how to access the services.

Ms. McCue stated that number 7 is to review the county government structure. She said number 5 suggests that a permanent charter revision commission be established as they have realized what a mammoth task this is. If number 5 is accomplished then number 7 would be one of the tasks of the new Commission. Mr. Binder stated that many other counties have committee to review their administrative codes and that may be helpful. Ms. McCue stated that number 4 suggests that a county wide assessment would be helpful.

Ms. McCue stated that number 2 is the establishment of a parks district. She said they met several times with former Parks Commissioner Joe Stout. He suggests that a separate parks district be created in the budget to show how much funding goes toward county parks. She said Mr. Stout feels that he would be able to get more donations for the parks if people could see how little of their tax bill goes towards the parks system. Chairman Wishnie asked if this were created would Friends of Parks remain separate. Ms. McCue replied yes that is the vision. The Commission discussed whether a parks district would allow for private donations to go directly to the parks instead into the county general fund. Commission members also noted that a problem with this idea is that it will appear that a new tax is being created. Ms. McCue and Mr. Parisi said they feel this should be

discussed but understand that it will probably not happen. Mr. Zuckerman asked if the Focus Group received any testimony in opposition to the parks district. Ms. Morgenstern said no, maybe we should do that. Mr. Parisi suggested that we do that as a full Commission as it is proposed now for discussion.

Ms. McCue stated that the final suggestion, number 3 is that the language for the appointments process be clarified in the Charter with regard to people serving on boards and commissions or as department heads prior to their confirmation by the Board of Legislators, as well as, what happens if the legislature does not confirm an appointment. They also suggest that if the legislature does not vote on an appointment within 90 days the appointment should be deemed confirmed. Counsel Steinman stated he would provide examples of such a process from other counties.

A discussion ensued regarding the 90 day period prior to confirmation and whether or not the appointed person is allowed to act during that time. Ms. Restiano stated that she would not like to see anyone sitting in a position without being confirmed. Mr. Wishnie, Counsels Steinman and Dolgin-Kmetz all expressed concern about this especially in terms of department commissioners and directors, as this could leave a department without a leader for up to 90 days. Counsel Steinman stated that the law today allows the deputy to act as the commissioner until a commissioner is appointed. Counsel Dolgin-Kmetz stated that the County Charter requires that all acting commissioners be appointed and approved as well.

Ms. McCue stated that there are several people on the Human Rights Commission right now who have never been confirmed and are active members of the Commission. Ms. Restiano stated that she thinks that is wrong, and the previously approved member who is being replaced should sit in that seat until a new member is approved. The Commission agreed to discuss this further.

Chairman Wishnie stated that the next meeting will be on February 7th, 2013 at 6:30. He stated that Mr. Binder has a couple of speakers coming and will hopefully provide his focus group report presentation as well.

Mr. Zuckerman stated that the League of Women Voters will be having a forum on campaign finance and Jeff Binder will be a panelist. Mr. Zuckerman stated that he will be moderating the forum. Mr. Zuckerman will circulate the information to the Commission.

With a motion by Mr. Zuckerman, seconded by Ms. McAndrews the Charter Revision Commission adjourned at 9:00 PM.

CHARTER REVISION COMMISSION

February 7, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of January 24, 2013.**
- 2) **Budget & Finance discussion with Frank Mauro, Executive Director of the Fiscal Policy Institute, & E.J. McMahon, Empire Center for New York State Policy.**
- 2) **Presentation of the Budget & Finance Focus Group Final Report.**
- 3) **The next meeting of the Charter Revision Commission will be on Thursday, February 21, 2013.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

FEBRUARY 7, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Herman Geist, Derickson Lawrence, Steve Mayo, Anne McAndrews, Paul Meissner, Jane Morgenstern, Bertrand Sellier, Matthew Thomas, Gary Zuckerman, Paul Windels

Absent Members: Raymond Belair, Alfred Gatta, Julie Killian, John Mattis, Florence McCue, David Menken, Guy Parisi, Vincenza Restiano, Ronald Volino, Sam Zerka

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Justin Adin

Commission Counsel: Lester Steinman

Guests: Frank Mauro, Fiscal Policy Institute;
E.J. McMahon, Empire Center for NYS Policy

MINUTES

Chairman Wishnie called the meeting to order at 7:44 PM.

Chairman Wishnie turned the meeting over to Jeff Binder, chairman of the budget & finance focus group, to introduce the meeting guests and lead discussion. Mr. Binder thanked members and guests for attending and described how the focus group had arrived at this point. He noted that the focus group had yet to hear from the “think-tank” community, which the two guest speakers represent. Mr. Binder introduced Frank Mauro, Executive Director for the Fiscal Policy Institute and E.J. McMahon, Senior Fellow at Empire Center for New York State Policy, and briefly described their credentials.

Mr. Mauro initiated discussion by referencing his experience with the New York City Charter Revision Commission and highlighting in particular the development of the 1989 Independent Budget Office (“IBO”) for New York City. The materials provided by the Westchester Commission suggest consideration of a similar entity to the IBO. He clarified that the NYC IBO does not perform administrative or budget-preparation functions for NYC, but rather it provides information and analysis to help guide debate.

As a prelude to the IBO, Mr. Mauro noted the interest during the 1975 NYC Charter Revision of increasing legislative oversight of the Mayor’s budget. This resulted in the establishment of the Legislative Office of Budget Review (LOBR). The LOBR was designed to, and succeeding in, increasing the City Council’s analytical abilities. However, the LOBR became a problem for the

Koch administration, which pushed for the office to be defunded. When the 1989 NYC Charter Revision Commission began, many “good government” groups still advocated for independent budget analyses, to make information available to both elected officials and civic groups. Over its three year term, one of the two chairs of the 1989 commissions pushed for a model based on the Congressional Budget Office, with independent expertise. The City Council Speaker at the time did not feel there was a need for a new legislative budget office. This ultimately resulted in the creation of the IBO.

Mr. Mauro thought the IBO was formed, in part, because New York was dominated by one political party, and budget tensions are among party members. He didn’t think the IBO model would succeed in settings with competitive political parties. The IBO director is appointed to a four-year term by a special four-member committee of NYC elected officials, based solely on the recommendations of another screening committee. The screening committee has thus far retained an independent nature. The IBO director then hires all IBO staff.

Mr. Mauro commented that the IBO’s success is exemplified by the New York State Legislature granting the IBO with certain oversight authority on New York City schools, which came under mayoral control in 1999. Additionally, former LBOR members had testified in support of an IBO at the public hearings, which resulted in a guaranteed appropriation for the IBO of at least 10% of Mayor’s office of management and budget. This is a sizeable amount, considering that this funding goes solely towards budget analysis, rather than budget administration (implementation). The IBO has attained much respect, which is evident by the recent funding to this office above the statutory minimum of 10%.

Mr. Mauro noted that the Commission appears to be reviewing the divided responsibilities and accountability of the County Budget Director. He thought the budget director should be primarily accountable to the chief executive, as opposed to providing budget support to the legislature. For Westchester, a budget office for the County Executive and a separate fiscal office for the Board of Legislators would seem necessary and appropriate. He inquired why the Commission was interested in an independent budget office. In New York City, the IBO opens up the analysis of the NYC budget issues that are at the forefront of debate, which otherwise would be more opaque. A Westchester analogue to the IBO would not seem as necessary.

Mr. Binder identified obstacles in the current budget adoption process: a condensed timeframe for budget adoption (5 weeks); the difficulty expressed to the Commission by legislature on obtaining budget information; and the imbalance in staff resources between the legislature and executive administration. Tension among political parties or between branches of government can also hinder the process. Therefore, the Commission is reviewing whether Charter amendments can improve the budget process and promote better information exchange. Mr. Windels added that the County’s use of an independent audit firm to assist in budget review has yielded data that all branches and parties can utilize and has helped narrow issues. Also, the County Board’s retention of former Budget Department staff has assisted in budget analysis. Mr. Mauro acknowledged the reality of political factors and the rationale for adopting the budget after elections. He suggested ongoing budget analysis to mitigate the short time frame.

Mr. Binder inquired about the best practices for managing the County’s budget. Mr. Mauro responded that the Commission was looking not only at efficiency or best practices in financial

stewardship but also at maintaining a separation of powers democracy. Mr. Meissner commented that the Commission seeks to codify procedural changes in the Charter that balance the democratic process and efficiency, beyond simply operational strategies (e.g., staff resources). Mr. Zuckerman noted that the Commission was also evaluating alternate forms of government, and he asked Mr. Mauro to clarify his comments on a “non-separation of powers” form. Mr. Mauro replied that he meant a form similar to a parliamentary system, in which the same branch conducts both administration and policy. In large governments, which would include Westchester County, there is a public expectation of checks on an executive, which the legislative branch provides.

Mr. Mauro asked about the analysis provided by the independent audit firm. Chairman Wishnie described the audit services, and he queried whether funds should be allocated for a concentrated audit by an outside firm (similar to the existing budget review) or allocated for year-round, in-house staff. Mr. Mauro noted that a legislative budget office like the Congressional Budget Office may better address budget analysis needs than the NYC IBO model, which operates more independently. He referenced a distinction in staff between the New York Legislature and the California Legislature, in which the California office has a significant amount of non-partisan staff. The Congressional Budget Office is similar. He surmised that the Commission needs to decide whether to strengthen the analytical resources of the legislature versus creating a new, independent entity. Given the current political party tension and potential for new coalitions, a non-partisan analytical resource, available to and respected by both parties, could be a valuable resource. Mr. Binder commented that there is also tension among the branches, as to which branch sets fiscal policy.

Mr. Mauro replied that both branches effectively make policy. He referenced a proposed 2005 constitutional amendment, and the general consensus that large governments require executive leadership. Given a legislative/executive form of government, legislative power might be increased either by strengthening partisan staff or by creating a new institution. Chairman Wishnie observed that the County Budget Director has historically provided independent, non-partisan assistance, but a perception remains that the director is more responsive to the executive because of the executive’s appointment. At present, numerous legislators are not receiving timely or adequate information, but this had not previously been the case. He described the current Administration’s submission of a budget that contained identical amounts as requested by departments (estimates) and as approved by the County Executive. This was not previously encountered. In response to Mr. Mauro’s inquiry, Chairman Wishnie stated that testimony to the Commission members indicates that the County Board fiscal staff does not have access to the same budget information as the County Budget Director. As such, a tension between the branches exists and the Budget Director is inclined to support the County Executive, the appointing authority. Mr. Windels disagreed with a notion that the Budget Director has concealed or distorted information, to which Chairman Wishnie agreed but maintained that the Budget Director has a pressure to support the Executive/Administration position.

Mr. Binder inquired how an independent budget office could obtain the information it seeks, putting aside cost considerations of establishing such an office. Mr. Mauro acknowledged this could be difficult to enforce, noting that the IBO initially had to go to court several times to get the information it required. He questioned whether, in “modern times”, it is possible for a budget director to evenly serve the needs of both branches, such as executive budgeting &

administration and legislative oversight. In this sense, it may not be possible to re-create the previously strong tradition of public administration.

Mr. Thomas asked Mr. Mauro if there is a distinction between budgetary “work product” and finished work to be shared. Mr. Mauro said this question similarly concerns separation of powers. He again expressed his view that a chief executive very likely needs his/her own budget director and it is unrealistic to try to make the budget director independent of the executive. Mr. Geist commented that, since his time as Board chairman in early 1970s, social services still accounts for nearly 2/3 of the budget and other mandates upon the County continue, like Medicaid. Previous County institutions such as the courts and community college are now separate from the County’s control, and thus only 35% of the County budget is subject to review by the executive and legislative branches. During his previous experience as a legislator, the Budget Director had provided information directly to the County Board, and the timing of budget adoption had less tension because the Board had been kept informed. But, there was a change in communication once the County Executive transferred to a different floor of the building. Mr. Mauro observed that the “good-government” ethos that appears to have previously existed in the County cannot be written into the Charter.

Chairman Wishnie solicited Mr. McMahon’s input. Mr. McMahon thought the Commission is focusing on too much detail for a government charter, and the current political balance/imbalance has no place in a charter. He suggested the Commission concentrate on its objectives. For example, does the Charter promote a budget that is fiscally responsible, fiscally accountable, and fiscally transparent? His informal review of the Charter indicates some areas could be improved.

Mr. McMahon referred to the key issues in the focus group report. He agreed that the current budget schedule is too compressed and thought it could be changed to resemble Suffolk’s timeframe, which requires budget introduction by September 15 and adoption by November 10. Mr. McMahon did not agree with the suggested change to a July budget adoption. He did agree that the Charter should clarify that the County Board has access to departmental funding requests; this would be similar to the New York State Legislature’s powers since about 1928. However, Mr. McMahon believes it must be acknowledged that there is an executive budget process in place, handled by a budget director who is appointed by the Executive. He thinks this is the best approach for a government the size of Westchester’s, with the legislature providing checks and balances. The balance to an executive-driven process is that the legislature can say ‘no’ to the budget, which is a considerable power. The New York State “Executive Budget” law permits the Legislature to strike or reduce items from the budget without any response by the Governor. Legislature line item additions are subject to Governor Veto and legislative override by two-thirds majority. These provisions support fiscal control and responsibility; however, laws cannot be effective if parties are determined to be irresponsible or uncooperative. He does not think Legislature(s) provide adequate oversight on budgets.

He disagreed that a two-year budget cycle would benefit Westchester, although it might be useful at the state level. He also disagreed that the Charter language should be changed regarding capital projects. Mr. McMahon thought that the budget should require a more formalized monitoring process, such as on a quarterly basis. He emphasized the value of requiring a five-year financial plan in the charter, similar to New York City’s plan. This would

be updated every quarter, so as to help reveal any structural imbalances. In response to Mr. Meissner's question, he replied that the format of the five-year plan need not be too prescriptive and again suggested reviewing the New York City format. Although not identified by the Commission, he strongly suggested consideration of this approach and urged simplicity. Many large counties and school districts actually have an internal multi-year plan, but it is often not released because of a perception that it would potentially embarrass the officials if it is inaccurate.

Mr. McMahon did not think a county government needed or should have an independent budget office, except perhaps to monitor the budget of the legislature (i.e., budget for BOL). However, an office like the Congressional Budget Office would be useful for New York State. The New York City IBO is warranted because of the City's large size, as well as the depth and complexity of both its services and revenue streams. As a comparison to New York State, Mr. Mauro observed that the Governor can modify agency requests in any way prior to budget submission, but, once the budget is introduced, the Governor may only veto legislative additions. The Governor may only veto line-item additions, rather than veto the entire budget (NY Constitution expressly prohibits this). In contrast, the Governor can veto items in the budgets for the Legislature and the Judiciary because these budgets must be initially submitted without Governor modification.

Ms. Dolgin-Kmetz clarified that, although not expressly stated, the Charter has been interpreted that the County Executive can veto the entire the budget, as well as legislative additions or increases. Mr. McMahon commented that the Legislature's power to strike and reduce items is a strong (and underutilized) power that balances the Governor's power to veto items. Mr. Steinman noted that, where the legislature approves the executive's budget with only reductions or deletions, many other counties' charters prescribe that such adoption completes the budget process, thus eliminating the potential for a county executive to veto the entire budget. Mr. McMahon added that New York City's budget process is on-time and regular, with a preliminary budget in January, formal budget submission in late April and adoption in late June to July 1. In NYC, the Mayor's revenue estimates are controlling, and City Council must resort to tax levy if it seeks to increase revenues (rather than adjusting estimates). Mr. McMahon thought this attribute was important for executive budgeting. Mr. Geist noted that the cap on Medicaid expenses would assist in developing a multi-year plan, but pension costs are less predictable. Mr. McMahon stated that pension costs can be reliably estimated for planning purposes.

Mr. Mauro requested clarification on the memorandum of additions and deletions to the budget. Chairman Wishnie described the additions procedure, and Mr. Adin stated that the Budget & Appropriations Committee may increase revenue estimates such as sales tax in its additions memorandum. Ms. Dolgin-Kmetz noted that such modification must occur at that point, rather than later in the adoption process. Mr. Mauro wondered whether the County Board's ability to modify revenue estimates should be changed, particularly if there had been any 'abuse' of this process. Mr. Windels commented that the testimony to the focus group had indicated that later dates (timeline) for the adoption process yielded more accurate data and estimates, and he was not aware of any controversy on these estimates. Chairman Wishnie stated that the external auditor retained by the County Board provided input to the Budget & Appropriations Committee on whether increasing revenue estimates is warranted. Mr. McMahon responded that legislative authority to modify revenue estimates is not consistent with an executive budget process.

Chairman Wishnie noted that any additions in the memorandum could still be removed by the entire Board or vetoed by the County Executive.

Mr. McMahon noted that a reason New York City survived the recent recession without crippling budget cuts was because the Mayor had control of the revenue estimates. These estimates ended up closer to actual revenue amounts, in contrast to the higher estimates of the City Council which had been accompanied by proposed spending. New York City's outcome was in significant contrast to the disparity between New York State's revenue estimates and actual revenues. By placing authority for revenue estimates solely with the executive, the executive is also made accountable. Despite frequent low revenue estimates, the New York City Mayor has often had funds 'in reserve' that the City Council has then used. Mr. Lawrence said that the main points both guests present are whether there should be a strong executive-driven process versus a co-managed process that is in place right now, as well as how the charter should support either process. Chairman Wishnie expressed appreciation for the guests' outside perspective and noted that the Commission's findings and recommendations are not mandatory upon the County Board. Mr. McMahon responded that legislatures often think of an executive-driven process only in terms of the current executive in office. Although the Charter can't be made 'fool-proof', incentives can be structured to favor or promote fiscal responsibility, accountability and transparency.

Regarding the report's recommendation of enhanced public notice for borrowing of pension costs, Mr. McMahon thought this may be worth considering as a local law but not necessarily for the Charter. Mr. McMahon stated he was not informed enough to provide a meaningful answer on the report suggestion to create a mandatory aging period between the issuance of the Budget & Appropriation Committee memorandum on deletions and the budget adoption by the full Board. Mr. Mauro commented that the notice period could be looked at as it relates to the overall time frame of the budget review and adoption.

Mr. Mauro asked Commission members to clarify their point on the County Board's ability to recommend Capital Projects. Ms. Dolgin-Kmetz responded that, in the past, the Board had added projects to the capital budget upon submitting their additions to the budget. Mr. McMahon asked whether the Board participated in the capital projects committee functioned, to which Ms. Dolgin-Kmetz replied that this Committee could easily reject Board proposal because it is weighted towards the County Executive. Chairman Wishnie noted that typically, on day of budget adoption, legislators had added capital items to the additions as part of the budget negotiations. The current County Attorney, however, halted this practice, essentially by considering the Board as a type of County department, which the Charter requires to proceed through approval by the capital projects committee and Planning Board. Mr. Adin stated that the position of the County Attorney is that any capital project that is proposed to be added must go through the planning process before its inclusion in the capital budget.

Mr. McMahon referenced a relatively recent practice at the State level, in which local capital projects that benefit third parties are being financed through State general obligation bonds, giving rise to the term 'bonded pork'. Alternatively, the Legislature had enacted special appropriations to fund such projects (no longer done). Mr. McMahon inquired how New York City provides for local projects. Mr. Mauro was not sure whether the City Council could make additions to the capital budget. Chairman Wishnie clarified that projects included in the capital

budget must be separately authorized by the Board (by act), and Ms. Dolgin-Kmetz added that any amendments to the capital budget must be initiated by the County Executive. Mr. Mauro suggested the Commission might consider codifying the existing procedures (Board addition of project in capital budget, followed by Planning Board approval).

Regarding a fiscal year beginning in July, Mr. Mauro commented that Nassau County had previously changed to this type of schedule but found it unsuccessful and switched back. Mr. Binder asked the guests for their opinion on having an independently-elected County Comptroller, particularly for promoting accountability. Mr. Mauro said the New York State Comptroller model does not conform to good 'business practices' at the County level because the NYS Comptroller has a combination of various duties of other offices (e.g., part Treasurer, part Auditor, part Comptroller). To promote accountability in an independently-elected office, he thought that an auditor position could be a possibility, and numerous states have variations of elected or appointed auditors (e.g., auditor general, legislative auditor, etc.). However, the 'book-keeping' tasks performed by the New York State and New York City comptrollers are executive functions. Mr. Mauro suggested reviewing the experience of states with auditors elected by the public versus auditors 'elected' (appointed) by the legislature.

Mr. Mauro asked Commission members whether the independent audit helps inform the budget process as well as budget oversight, to which members affirmed. He noted that the County Board contracts with the auditor, indicating legislative power (check/balance). Mr. McMahon agreed with Mr. Mauro, and he added that little needed to be changed presently. He did not think that comptrollers in large New York counties had provided meaningful benefit (e.g., Erie, Nassau, Suffolk). He added the County is subject to federal securities regulation [because of bond issuances], which places issuers at risk of securities fraud for improper statements. Mr. Geist observed that no financial scandal had recently occurred because of the many 'whistle-blower' aspects in place, and the large portion of County budget devoted to social services is subject to federal oversight. Mr. Meissner inquired whether the County is subject to audit by New York State, which Mr. McMahon confirmed.

Mr. Binder asked whether these mechanisms provide needed oversight, noting that the County Board's auditor is only retained during the budget season. Mr. Mauro stated that an auditor general conducts program audits, in contrast to a federal agency or comptroller. Mr. McMahon questioned whether or not a government of Westchester's size needed this additional office. He again reiterated his point that unless a legislature agrees to an executive proposal, nothing is final, thus underscoring the legislature's leverage. Mr. Mayo commented that much of the recent controversy has concerned subsidized child day care funding, and other important areas such as public safety had less controversy. He thought public attention to the County budget generally should be greater than simply public notice. Mr. McMahon responded that child care at the county-level is a fairly straight-forward policy choice (either for, or against), and other jurisdictions (e.g., New York City, Yonkers) are more complex.

Mr. Windels asked the guests for clarification on the appropriate length of the budget timeline, contrasting an approximate 6 week duration in Westchester with an 8 week duration in Suffolk. He also noted Westchester's budget adoption process begins after November election. In contrast with some other counties, Mr. McMahon referenced Westchester's historically solid fiscal experience, which has also been characterized by same political party control in the executive/legislative branches. As such, he expressed caution in making changes at the charter level on the budget process. Mr. McMahon noted his initial reaction that Westchester's timeline appears to be compressed at the end of the calendar year. Without being close to the Westchester process, he could not say whether a post-election budget season has an impact. He believed 7 to 10 days would be an appropriate increase of time for budget consideration. Mr. Mauro thought Westchester was somewhat unusual in its budgetary time frame, and he acknowledged a dilemma in lengthening the budget timeline with a potential impact of an election on the process. Mr. Steinman agreed that many other counties have a September/November schedule. Mr. Binder noted the unique characteristic that Westchester towns and cities guarantee payment of taxes.

Given the strengths expressed for an executive-driven budget process, Chairman Wishnie asked how to resolve conflicting loyalties of the County budget director. Mr. McMahon thought that the budget director should serve solely at the pleasure of the County Executive. Chairman Wishnie replied this would then need to be balanced by larger fiscal staff or services of the independent auditor, and Mr. Mauro concurred with strengthening information flow. Mr. McMahon referenced the Suffolk County Legislature's Budget Review Office, which he maintains has more fiscal resources than available to the Suffolk County Executive and which he does not think has worked well in Suffolk's executive budget process. Ms. Dolgin-Kmetz queried how the County Board can get the financial information that it requires. Mr. McMahon identified the New York State 'executive budget' law and New York City Charter as having provisions that require information to be provided to the legislative body at certain times. He commented that the City Council directly examines the budget director to get financial information. Mr. Mauro noted that monthly financial reporting is shared with the NYS Legislature (both houses, majority & minority) and NYC Council. In New York City, the FISA agency generates this data. He anticipated that a government of Westchester's size would be able to generate similar management-level reports.

Chairman Wishnie inquired on the type of charter amendment to effectuate the information flow. Mr. Mauro thought that quarterly reports could provide the same types of information required in the annual budget (e.g., amount expended to date, amount approved, etc.). Mr. Sellier noted that more formalized reporting was suggested by the focus group. Mr. McMahon observed that the legislature's information requests are related to its oversight function, but this can further develop into a "co-management" function, which he does not believe is appropriate beyond a certain point. One way to gain information may simply be to require the Executive to make certain information public, such as through the Internet, which would thus be available to the Legislature and public alike. Mr. Binder mentioned the distinction between internal work-product and data to be shared. Mr. McMahon and Mr. Mauro described work-product as similar to a special, internal study or analysis. Mr. Sellier suggested sharing information at a similar standard as what would be available under Freedom of Information Law (FOIL). Mr. Zuckerman commented that the Internet has made much information available. Mr. McMahon agreed, and he observed that a Legislature's vigorous fight for information is more related to its

interest on a particular management approach, rather than simply the data. The guests reinforced the notion that significant changes to some processes could have unintentional consequences and that Charter amendment recommendations should not be taken lightly. As an example of a significant charter amendment, Mr. Mauro provided historical background on the elimination of the Board of Estimate in New York City.

Chairman Wishnie concluded the discussion and thanked Mr. Mauro and Mr. McMahon for attending and providing valuable input to the Commission. Chairman Wishnie then sought comments from members. Mr. Steinman urged the Commission members to look at the material Chris Crane had prepared and its relation to the meeting tonight. Mr. Sellier recommended the Commission form its conclusions while the ideas from this meeting are still fresh in mind. Commission members noted that the meeting minutes for this meeting would be particularly important. Chairman Wishnie suggested that the Commission return to previous expert witnesses, such as Budget Director Soule, with questions based on the information that has been gathered.

Mr. Zuckerman agreed with Mr. Sellier, while expressing his interest in reviewing the meeting minutes and other relevant issues before deciding what direction to move in and before bringing people back in. Ms. Dolgin-Kmetz noted the consideration in the 1988 Charter Revision that the Budget Director reported to both branches. Mr. Zuckerman thought some points are relevant to issues considered in other focus groups and emphasized the need of the full Commission's input. Mr. Sellier reiterated the need for specific ideas, for which reviewing the minutes would be useful, and members should come prepared with their ideas and suggestions to go over as a group before bringing a witness/department representative back in. Mr. Binder agreed with distilling the material from this meeting and reexamining it before they move forward.

Mr. Lawrence acknowledged the necessity to go deeper into the issues being considered, noting that, when it first started, the Commission did not have the benefit of this expert testimony. The various points should be discussed with the full Commission, such as how Westchester compares to other counties. However, he suggested the Commission avoid "getting into the weeds" too much. He suggested progressing incrementally and methodically, using the guidelines of "doing no harm" described by the speakers. Mr. Thomas stated that they have begun to take the focus group reports and begun to examine them while trying to figure out how to go deeper. He noted that the number of members in attendance for quorum needed to be looked at, to ensure the ideas and materials get passed onto the next level. Mr. Zuckerman stated that different focus groups had different objectives, and the complexity of information and issues varied among the groups. Tonight's meeting was a major issue that required a lot of thought and time to be handled appropriately.

Mr. Windels brought up the planned "retreat" day, along with figuring out a "decision day" on the pertinent issues and recommendations. He did not want to see voting based solely on the number of people in attendance. Chairman Wishnie stated that the Commission is still far off from voting, as the public has not yet been engaged and the Commission is still in an information gathering process. Chairman Wishnie referenced the upcoming presentations of the Executive/Legislative focus group.

Mr. Mayo touched on what Mr. Lawrence had referenced, suggesting the possibility of a presentation by a PR firm, or something similar, in order to garner more public interest and support. Chairman Wishnie discussed the current plans for “marketing” the Charter Revision Commission and its findings. He said a process is underway to reach out to various organizations and County agencies, to which the Commission will send its findings and request input. He expected a fairly strong response, and was optimistic on the outcome.

Mr. Steinman commented that meeting attendance should become more mandatory, within reasonable bounds, as the meetings are growing more important. Missing a meeting means missing information. Chairman Wishnie stated a process is underway to request additional resources because the workload, in addition to the frequency of meetings, has increased. He noted a possibility of going back to monthly meetings, albeit longer meetings, if the additional help and conditions allow it. He believed that the retreat would help the Commission build consensus on the issues under review. Commission members have not responded entirely, so it is not yet possible to set a date. He has requested Melanie to contact the remaining members who have not submitted their retreat availability. Mr. Meissner briefly touched on individual responsibilities of commission members, to which Chairman Wishnie commended the members and their work so far.

Chairman Wishnie noted the next meeting date is February 21, 2013, with the possibility of an alternate date because of the winter break. He also mentioned that consideration was given to using Doral Arrowwood’s facilities at no cost for the retreat, which Doral had offered. However, Mr. Steinman explained the ethical obstacles in using these facilities. Chairman Wishnie affirmed that the Commission would instead likely seek the use of an appropriate County facility.

With a motion by Gary Zuckerman seconded by Mr. Windels, the Charter Revision Commission adjourned at 10:02 PM.

CHARTER REVISION COMMISSION

March 7, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of January 24, 2013 & February 7, 2013**
- 2) **Discussion of Budget and Finance Focus Group Report recommendations and presentations by E.J. McMahon and Frank Mauro, along with Chris Crane's analysis of the budget process in other counties.**
- 3) **Discussion of the Charter and Code Focus Group Report recommendation regarding the role of the County Attorney.**
- 4) **Discussion of the Executive Legislative Relationship Focus Group report.**
- 5) **Discussion of the date, time, location, format, outreach and publicity for the Public Forum to review Commission work to date.**
- 6) **The next meeting of the Charter Revision Commission will be on Thursday, March 21, 2013.**

**WESTCHESTER COUNTY REVISION COMMISSION
MINUTES**

MARCH 7, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Anne McAndrews, Florence McCue, David Menken, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Julie Killian, Derickson Lawrence, John Mattis, Steve Mayo, Paul Meissner, Jane Morgenstern, Gun Parisi, Vincenza Restiano, Ronald Volino, Sam Zerka

County Staff in Attendance: Chris Crane, Melanie Montalto, Justin Adin

Commission Counsel: Lester Steinman

MINUTES

Chairman Wishnie called the meeting to order at 6:51 PM.

Mr. Zuckerman led a discussion on the final report for the Executive/Legislative Relationship Focus Group. Mr. Zuckerman stated that the Focus Group is recommending that the county change to a manager form of government. The commission discussed the aforementioned form of government and examples of where this was already in place, such as Orange County. It was also noted that this form of government enabled their charter to be only a few pages long compared to the voluminous amount of information contained in Westchester's charter.

Chairman Wishnie asked that the commission move onto the next topic. Mr. Gatta discussed the group's recommendation with regard to centralizing the assessment practices within the County. They examined several different models, noting that the present language in the charter was somewhat cumbersome. Centralization would enable more efficiency, more effectiveness, and would bring the process up to the speed to match the need in today's world.

Presently there are 25 separate jurisdictions at various stages of tech and efficiency, all varying in how well they handle assessment practices. Recommendation would centralize approach and standardize methodology and property inventory guards which presently differ.

Mr. Binder asked what was meant by them not doing a good job. Mr. Gatta explained that when an assessor performs poorly and is working for a manager, generally they are fired. Currently there is limited accountability despite complaints. He stressed that assessments should be fair and equitable. Mr. Gatta gave present day example with the assessment practices in the City of White Plains coming up with less of a market value than the village of Scarsdale, resulting in White Plains paying a smaller proportion of taxes than Scarsdale.

The commission discussed the state equalization formula and Mr. Gatta stated it is only to equalize assessed values to 100% so they can distribute money, but doesn't help level the field on a countywide basis. Mr. Zuckerman discussed the Collaborative Assessment Study, authored

by Mr. Gatta and several others which went into great detail about the deficiencies. Mr. Wishnie stated that while centralization was clearly beneficial, the economics of this would pose a problem as changing this would cost a lot of money and was a complex problem. Mr. Steinman noted that adding to the complexity of this issue was the need for a referendum.

Chapter 125 of the Charter makes a provision for the creation of a County Assessment Department which would eliminate the need for municipal assessors. The commission discussed how politics might influence the proposed change. Mr. Gatta noted that the study he helped authored was sanctioned by a special act of the County Board. The commission asked how this was different than the old County Reval. Mr. Zuckerman stated that under the old Reval municipalities retained their old assessors. He continued that it would be possible to conduct a countywide Reval and equalization using county resources.

Mr. Gatta stressed the need for this recommendation saying that some municipalities, such as Mt. Vernon haven't done a Reval since the 1860s. The commission discussed the hypothetical organization of the Department, with questions raised as to whether someone would have to go to White Plains if they had an assessment question. Mr. Zuckerman stated that the department would have district offices, and Mr. Gatta stated that after centralization the number of assessment claims would drop significantly as well as dropping the cost from \$55 million to the estimated County effort of \$11 million. Chairman Wishnie stated that deciding whether to do the Reval or the centralization effort first was a topic up for debate as to which one should be done first.

Mr. Thomas stated that the fundamental problem is the way in which revenues are required from the different municipalities to the County. Mr. Gatta stated that is one issue, the other one is fairness and equity within one's community: some pay too much, some pay too little. Looking at it from the County's perspective, you have one village using outdated values and another one using current values, thus creating in effect a sort of "honor system". Mr. Gatta stated that it isn't as clear cut as that because of the equalization rate. Mr. Thomas asked if it was profitable to look at the equalization concept to provide that and whether it could be done politically. Mr. Gatta stated that the equalization rate being eliminated with a County assessment office would help solve other issues, although other issues could only be solved by the Reval.

Mr. Zuckerman stated that the Reval and proposed centralization were two separate but equally important issues. The Reval would increase parity between assessments within the same community. The centralization function being handled by the County would cost money to set up, but save the municipalities because of the decreased administrative costs. Mr. Binder asked if there was a report on those numbers, to which the Commission acknowledged there was a report and Mr. Gatta stated he would try to find it.

Mr. Steinman followed up by acknowledging the importance because there were some communities assessing at approximately 2% of the value whereas other communities assessed at the full 100% value. He discussed the assessment protocols in Connecticut, where assessment is done at 70% every 5 years. (54:06) stated that Pelham was a model municipality because everything was done on an annual basis in a very transparent manner, making it easier for homeowners and potential buyers. Chairman Wishnie asked when that occurred and he responded that it was roughly 10 years ago. There was a discussion on the potential issues with

bringing people and other entities that would be affected or might be averse to such a proposed change.

Mr. Zuckerman brought up the issue of the County Clerk being an elected position versus an appointed position, with most others who had come before them agreeing. Mr. Steinman stated that the same way the County abolished the title of “sheriff”, a state officer and a position requiring the amending of state law, the same rationale could be used to make an argument for abolishing the County Clerk position, although it would require a referendum. The commission discussed where the assessor function would fall, if the centralization process took place, and potential issues and consequences of this recommendation and implementation. Chairman Wishnie stated that the County would not be supportive of the County collecting taxes because currently they had a system in place which relieved them of that responsibility but ensured they got all of their money, earning the County an AAA bond rating.

Mr. Thomas brought up Mr. Steinman’s earlier comments about potentially abolishing a position, and how if possible, that could apply to the office of the County Attorney. Mr. Steinman stated the two aforementioned positions were sometimes found in the same constitutional provision. When he was with the County Attorney’s office when they abolished the position of sheriff he stated, no one believed they could do that by passing a local law, which they did and the court of appeals upheld the position. In his opinion the County Attorney was also subject to the same argument and reasoning. Mr. Geist gave some history as to the powers and functions of the sheriff’s office when he was in office. He stated that the same argument which Mr. Steinman gave could be applied to the County Clerk’s office as they were only administrators.

Mr. Gatta stated that the fourth recommendation is to clarify the language for appointments and requiring action by the Board of Legislators within 60 days of appointment by the County Executive. There was discussion on the time between being appointed and confirmed and what powers actually vested with the appointee until confirmation, if any.

The Assistant County Attorney, Justin Adin, commented on the appointment’s process. He stated that it was a court case in the 90s, but the County Supreme Court ruled that it was a two step process. Step 1 being the appointment by the County Executive, and the subsequent confirmation by the County Board. Until that confirmation happens, the person who has been appointed is allowed to act as if they had been confirmed. The commission asked if this applied to a potentially appointed commissioner, to which Mr. Adin stated that it depends, there are certain provisions in the charter and state law that mandate certain procedures and rules to be followed. Mr. Steinman stated that generally the Deputy Commissioner had power to act on behalf of the principal so there was no void in the power of a department to act. Chairman Wishnie gave a hypothetical situation, and noted that what should happen is contrary to what is actually happening. Chris Crane, Board Counsel, mentioned the current lawsuit and situation regarding the Board of Acquisition & Contracts. Mr. Adin stated that the decision essentially stated that there wasn’t enough evidence in place to show they hadn’t been confirmed. It was the general consensus that there needed to be further clarification and review of the appointments process.

Mr. Zuckerman stated that the final recommendation is to make the charter revision commission a permanent body to continually review the charter. With the numerous issues they had to address, a secondary commission meeting after their term ended could address issues they hadn’t

been able to tackle. He said the group should probably be smaller, and could meet at six month intervals or however the Commission decides is appropriate.

Mr. Wishnie stated that we need to pick a date for a public forum. He said we are working on a list of organizations to send it to and that will be circulated so members can make suggestions on who to add. Mr. Binder suggested that we do multiple forums around the county so that we go out to the public instead of asking everyone to come to White Plains on one night.

Mr. Thomas raised his one concern with going to the public was that there were some issues that fell outside of specific focus group's jurisdiction, but that members still felt needed to be addressed and bring up. He wanted to keep that point in mind and suggested the Commission look at ethic rules when considering this point. Mr. Wishnie and Mr. Steinman agreed with Mr. Thomas's suggestion. Mr. Binder asked for some clarification on Mr. Thomas's input and suggested going out to the public and holding several meetings in multiple venues. A discussion ensued.

Mr. Wishnie brought up the topic of the Commission seeking additional resources from the County for counsel's time and noted they planned on hiring Professor Benjamin. He stated that the legislation was going through the Board of Acquisition & Contracts later this month, with a commitment from both branches of government to act on this. He stated that they would invite Professor Benjamin at the next meeting to bring him up to speed.

Chairman Wishnie stated that the next meeting will be on March 21st, 2013.

He asked, based on last meeting's discussion, if Mr. Binder would be prepared to continue his focus group's report. Mr. Binder stated that they haven't had a review of it but that it was a good idea if everyone read the minutes from last time. The commission agreed it was in their best interest if everyone looked over the minutes to find any errors or anything that had been omitted.

The Commission asked how Chris Crane had set up his review of the budget analysis. Mr. Crane explained how he had broken the sections down and confirmed that he had citations which he would provide. Mr. Wishnie stated that after the next meeting, they should reevaluate their meeting schedule.

With a motion by Mr. Zuckerman seconded by Mr. Thomas the Charter Revision Commission adjourned at 8:17 pm.

CHARTER REVISION COMMISSION

March 21, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
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DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
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DAVID A. MENKEN
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JANE MORGENSTERN
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RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of minutes of January 24, 2013 & February 7, 2013**
- 2) **Discussion of Budget and Finance Focus Group Report recommendations and presentations by E.J. McMahon and Frank Mauro, along with Chris Crane's analysis of the budget process in other counties.**
- 3) **Discussion of the Charter and Code Focus Group Report recommendation regarding the role of the County Attorney.**
- 4) **Discussion of the date, time, location, format, outreach and publicity for the Public Forum to review Commission work to date.**
- 5) **The next meeting of the Charter Revision Commission will be on Thursday, April 11, 2013.**

**WESTCHESTER COUNTY REVISION COMMISSION
MINUTES**

MARCH 21, 2013

Members in Attendance:	Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Julie Killian, Derickson Lawrence, Florence McCue, David Menken, Jane Morgenstern, Bertrand Sellier, Matthew Thomas, Paul Windels
Absent Members:	Raymond Belair, John Mattis, Steve Mayo, Anne McAndrews, Paul Meissner, Guy Parisi, Vincenza Restiano, Ronald Volino, Sam Zerka, Gary Zuckerman
Staff in Attendance:	Melanie Montalto, Chris Crane, Stacey Dolgin-Kmetz, Justin Adin
Commission Counsel:	Lester Steinman

MINUTES

With a quorum present, Chairman Wishnie called the meeting of the Charter Revision Commission to order at 7:05PM. With a motion by Ms. McCue, seconded by Mr. Binder the minutes of January 24, 2013 and February 7, 2013 were approved with a vote of 12-0. The Commission discussed potential meeting dates and other details of the public forums and the retreat.

Mr. Binder reviewed the proposed changes to the County Charter in the Budget & Finance Focus Group. He stated that the group suggested changing the county's budget calendar year to match that of the State or just after that because the current process is too short. Mr. Steinman discussed other counties' timetables and the state law governing the process.

Mr. Binder stated that many people feel that the amount of time that Board of Legislators currently has to review, amend, and approve the budget is too short and much more time is needed. Mr. Thomas felt that the process only needed to be lengthened marginally, raising concerns about the role politics would have on an altered process. Mr. Steinman discussed breaching the Election Day threshold and its effects. Mr. Binder asked whether they should recognize that politics run year round in today's society, and not just around campaign season and Election Day.

The Commission discussed the possible scenarios and how specific budgetary issues could influence an election. Mr. Thomas stated that on the other hand, sometimes you have a situation where compromise is necessary to initiate a bargaining position. Mr. Binder reiterated that politics play a role year round, although Mr. Thomas countered that without a preliminary budget out there, voters were receiving incomplete information. Mr. Geist brought up the suggestion of

changing the fiscal year. Mr. Binder stated that he combined the first two points and that Mr. Geist's suggestion was tied to what he had been talking about

Mr. Binder asked if anyone who wasn't on the focus group had any comments. Mr. Gatta discussed the process of changing the fiscal year and its effects on each branch of government during the budget preparation process. He discussed how in his experience the process was almost year round with initial budget prep occurring as early in the summer. He agreed with Mr. Binder that politics would prevail, but succumbing to that would be succumbing to a lesser process of government here in Westchester, mentioning the current issues with Playland. Mr. Sellier asked how we could get all of the legislators more engaged throughout the entire process. Mr. Gatta stated that the first step they could take in improving the budget process would be changing the fiscal year.

Ms. Dolgin-Kmetz weighed in, stating that she agreed the budget process was a five or six month long process, beginning as early as May, but the problem was that the public isn't aware until the budget is actually released as it is done behind closed doors. Chairman Wishnie believed that maybe the process should be open. Mr. Windels stated that politics was tied to power, thus being tied to spending money. He believed that the budget should be a political process as politics were in theory the way that people controlled the government. He asked for a hypothetical scenario regarding changing the fiscal year.

Mr. Gatta gave an example with July as the beginning of the fiscal year; the budget process would start in January, being worked on internally. He continued that if the Board of Legislators had a finance committee, that preliminary rough draft would be presented to them, being open to the public with meetings being held regularly. By continually paring down the budget and finding out what the public really wants this would help facilitate compromise.

Mr. Geist asked if this change would include changing the terms of the elected officials, because a large turnover all at once in a legislature could create major issues. They discussed the present term limits only just being implemented were six terms or twelve years. Mr. Binder stated that wasn't something they considered, but Mr. Steinman stated that they wouldn't be heavily invested in the process early on. A discussion ensued on potential problems with a large turnover in the budget process such as the appointment of commissioners in such a short time.

Mr. Binder went onto the next point which was very granular in the overall scheme of things. He raised the question of if the Board of Legislators has access to departmental funding requests as specified by the Charter, as this year there were some issues in the Board obtaining information. The overall goal was to create a more open, transparent government, and clarifying the language in the Charter might help this, which Chairman Wishnie agreed with. Mr. Steinman discussed the information Chris Crane obtained on other counties budget, specifically mentioning in Ulster County's Charter that departmental requests submitted to the executive were declared public records.

Mr. Gatta stated that the majority of the time, it's the executive's budget and commissioners were making requests based on the needs of the department, not by the reality of the situation. Mr. Geist asked about the timeline of the College budget, which Ms. Dolgin-Kmetz replied was in September. Mr. Geist stressed the importance of considering the miscellaneous budget in the

overall scheme of things. A discussion ensued on the budget format and possible changes and how they would affect the process.

Mr. Binder believed that the underlying issue was if the Board was considered an equal partner in the process or if this was an executive driven budget. Mr. Geist added that a lot of the time, politics is personality driven, thus affecting the flow of information. Mr. Lawrence believed that there was enough information before them that they could come to a decision on this. He asked Mr. Gatta about previous testimony from guests who seemed to support the executive driven budget. He reiterated Mr. Gatta's comments on the availability of information to the legislature. Mr. Gatta stated that he believed in the executive's absolute responsibility for the budget and discussed possible issues with the legislature being too focused on the departmental requests while not taking into account the reality of the fiscal situation.

The Commission continued discussing the role of legislative oversight for the budget process had compared to the powers of the executive, boiling down to the ongoing natural power struggle between the legislature and the executive branches of government. Mr. Binder emphasized this by pointing out Mr. Frank Mauro's comments about checks and balances in the minutes from the prior meeting.

Mr. Binder went onto the next issue in the focus group report was the pros and cons of a multiyear, or two year budget cycle. The commission asked how common this format was in New York, to which Mr. Steinman stated that Erie County has a financial forecast for two years. Mr. Gatta stated that it would help counties forecast and better predict where they would be two years from now; however, it wouldn't increase the fiscal health of the county.

Mr. Binder brought up the next issue, of whether the language of the Charter should be clarified as to the legislature's involvement in the Capital Projects Process and discussed the current language in the Charter. The Commission analyzed the semantics of the language and discussed whether or not the legislative branch should be considered a County Department.

Ms. Dolgin-Kmetz brought up recent litigation and the subsequent court ruling that the Board of Legislators was in fact, not a department, and should be considered a separate entity. Mr. Adin stated that there were two issues regarding that ruling. First, the judge wrote that decision but dismissed the lawsuit, and that the petitioners had filed a notice of appeal, leaving the outcome in limbo for the time being. Mr. Binder clarified by saying "if the board is considered a department, the position was taken that they would have to adhere to a [very] specific timeline for getting something into the capital submissions" Ms. Dolgin-Kmetz stated that the problem with the legislature being labeled a department was that it would allow the County Executive to say no to submissions right off the bat.

Mr. Thomas asked if it made sense for projects to be vetted before they get put into the capital budget. Chairman Wishnie noted that historically, there was a 5 year capital plan that laid out the processes for capital submissions, discussing additions and deletions by the legislature. With the current administrations break from the tradition, the issue has created some additional tension with the two branches now in court.

Mr. Geist stated that when he was in office, he wanted a strong executive that he could approach for help pushing certain things through. That was possible because of the good working

relationship between the two branches of government. Mr. Steinman emphasized that despite the ongoing litigation, a court decision wouldn't fix the procedural issues and that the commission should not rely on a Court ruling to use as a guide generally, but also in reference to the ongoing litigation previously discussed. Mr. Geist stated that if clarification to the capital projects process could be clarified with certain amendments to the charter it would be worthwhile and help prevent future issues.

Mr. Binder went onto the next item regarding the installation of a more formalized monitoring process that would require quarterly reports. Mr. Gatta believed that there was already a requirement in place for quarterly reports. Mr. Crane stated that he believes the budget act each year will require them but it is not an actual charter requirement.

Matt Thomas discussed item number seven with regard to pension borrowing. Mr. Sellier stated that borrowing to pay for operating costs is a bad practice and we should make it as hard as possible. The Commission discussed how dramatically the pension costs have increased for municipalities and how this is a problem that is not going to go away for a long time.

Ms. McCue stated that she did not want future government to be obligated whether or not to borrow or not borrow depending on the financial health of the county, to prevent tying a future legislature's hands, noting that it should be their decision. Mr. Sellier stated that a more moderate approach would simply be to notify the public that the current government is borrowing for future obligations. A discussion ensued on the benefits associated with full disclosure versus what was currently in place.

The final item Mr. Binder addressed was about additions and deletions to the budget and whether the process for evaluating them was rational or should be altered in some way. Mr. Lawrence asked Mr. Crane to help the commission to help identify other counties who sought to tackle this issue and how they're handling this. Chairman Wishnie stated that the commission would have the Professor's staff research this to help drill down a better answer.

Mr. Binder presented a cartoon obtained by Legislator Marcotte detailing the current budget process in a simplified manner that implied a lack of transparency with the current process along party lines. Chairman Wishnie stated that each caucus prioritized their additions & deletions then and followed by a vote at a regular board meeting. Mr. Thomas stated that unless you were in the majority caucus you went into the meeting for all purposes blind and had no ability to discuss them beforehand and was suggesting a longer period between the additions and deletions and when they were voted on. A discussion ensued on the importance and functions of the additions and deletions. Mr. Adin stated that deletions could be put forth at any time, via a memorandum of deletions and or a vote on the floor. A discussion on what transpired during the final hours before a vote was led by Chairman Wishnie.

Chairman Wishnie discussed narrowing down the date for the public hearing. The Commission agreed on April 3, 2013 at 7:00 pm and agreed that the retreat will be on April 27, 2013 from 8:00 am to 5:00 pm. Chairman Wishnie stated that the next meeting will be on April 11th, 2013. With a motion by Mr. Thomas seconded by Mr. Binder the Charter Revision Commission adjourned at 8:48 pm.

CHARTER REVISION COMMISSION

May 9, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
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Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1) **Approval of the minutes of March 7 & March 21, 2013.**
- 2) **A presentation from Dr. Benjamin and Lester Steinman on the following issues:**
 - A. Countywide Assessment**
 - B. Structure and Process of Charter Change**
 - C. Appointment and Confirmation Process**
- 3) **Setting the date for the next Charter Revision Commission meeting**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

MAY 9, 2013

Members in Attendance:	Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, John Mattis, Steve Mayo, Anne McAndrews, Jane Morgenstern, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman
Absent Members:	Raymond Belair, Julie Killian, Derickson Lawrence, Florence McCue, David Menken, Guy Parisi, Ronald Volino
Staff in Attendance:	Chris Crane, Justin Adin
Commission Counsel:	Lester Steinman, Dr. Gerald Benjamin

MINUTES

With a quorum present, Chairman Wishnie called the meeting of the Charter Revision Commission to order at 6:15pm. With a motion by Mr. Zuckerman, seconded by Mr. Mayo, the minutes of March 7, 2013 and March 21, 2013 were approved with a vote of 13-0. Chairman Wishnie introduced the guest for the evening, Dr. Gerald Benjamin who will be serving in an advisory role to the Commission from now on.

Dr. Benjamin began with a PowerPoint presentation on a county-wide reassessment. He opened with a discussion on the localities reliance on the property tax as a more important source of revenue than the County. He continued by giving an overview on the order of the magnitude of the property tax for both municipalities and the County. He cited various figures comparing and contrasting reliance on property taxes and showed a formula for calculating tax revenues.

Dr. Benjamin then discussed the administration of the property tax, noting that while it was a common revenue source for municipalities, it dispersed decision-making based on relative needs of the municipalities. However, a non-centralized assessment function sometimes posed problems and the administrative costs were not shared.

He continued discussing the assessment process and assessing jurisdictions, noting that many towns are responsible for village assessment, with seven villages within Westchester relying on this. Additionally, Westchester municipalities do not rely on elected assessors, noting that this is a unique issue to Westchester County. The Commission asked about the difference between the taxing and assessing jurisdiction, to which Dr. Benjamin replied that the taxing jurisdiction had the right to levy the tax, while the assessor was a subset of the taxing jurisdiction. He commented that New York was ranked F for property taxes. He commented that while NYS mandates uniform assessment within jurisdictions, there is no standard for that assessment. Furthermore, according to a 2011 report, only the towns of Pelham and Rye, and the Village of Bronxville have been reassessed in the past decade.

Dr. Benjamin went on to discuss the coefficient of dispersion, a tool used to measure the ratio of assessed property value to the market value compared to the median value within a jurisdiction. Ideally, that figure should stay within 15% of the median value, something that unfortunately many Westchester municipalities didn't adhere to, essentially valuing many residents' properties unfairly. He spoke about how the equalization rate helps this balance out the various municipalities' assessment practices within the County. Pelham and Rye had a rate very close to zero which translated into fair market property values.

Mr. Windels asked to what extent dispersion can reflect the volatility of the housing market, given that often assessments are done when properties change hands. Dr. Benjamin stated that generally, more established residents in a community are assessed at a smaller proportion of the market value of their property compared to newer residents in the community; in essence this issue was present before the downturn and will likely remain after. Administratively, if a municipality has an equitable base, the adjustments are manageable, otherwise the inequities persist.

Dr. Benjamin went back to discussing equalization rates, emphasizing that it's needed to assure financing of entities that include properties in more than one assessing jurisdiction, such as a school district. He showed a slide of the State's equalization rates for municipalities in Westchester, pointing out that the vast majority are only assessing at a fraction of the value, an uncommonly bad practice in New York.

He then went on to discuss the findings of the Collaborative Assessment Report from 2011, which essentially stated Westchester's assessment practices needed to be significantly improved; specifically a regularly updated, computerized system that was complete and accurate would help in improving the accuracy of assessments which in turn would help improve taxation practices.

Dr. Benjamin then went on to list the pros and cons of a County-wide assessment. The pros included first, a single assessing authority was more likely to produce greater intermunicipal equity within the County. Second, almost all of the need for equalization would be eliminated, excluding certain school districts. Finally, it would result in a net savings in administrative costs. The cons included first, a diminished accessibility and responsiveness. Second, a tax burden shift would occur, something that was politically unpopular. Finally, there's the argument that savings might not occur. He discussed instances in New York when it was attempted and the political issues which proved difficult for it to be accomplished.

Dr. Benjamin discussed the County's Tax Commission, delving into its authority, structure, and functions. Moving on he discussed The County Real Property Tax Agency. Normally, it is to be appointed by the executive with advice or consent, or by the legislature. The Executive Director of the Tax Commission is appointed in this manner; a unique, bi-partisan body made up of five members created to overcome issues the Board of Supervisors had with setting the equalization rate back in the 1970s. The exception in State law is for Westchester which acknowledges the existence of the Westchester Tax Commission. The Commission has review authority but does not set the standards for internal equity.

He addressed the issue of if County-wide assessment was desired but not provided for by law, looking at Dutchess County. The state CAP Program provides that municipalities (excluding villages) may enter into an agreement with the county for assessment services, with a State requirement that assessment be on a “uniform percentage of value” within each assessing unit. They must agree to maintain the same uniform percentage of value and equalization rate for the term of the agreement. However, this program isn’t widely utilized across the State.

Dr. Benjamin added that certain responsibilities, described in the Collaborative Assessment Report, may be taken by the County such as database sharing, to which Mr. Gatta noted they undertook several of these, but stopped short of centralization. He pointed out Schuylers County, the eight town’s contract with the County for assessment. The County uses two assessors for its 13,400 parcels. Committed under contract, the County maintains all roles at 100% of value, presently charging \$13/parcel. Mr. Steinman commented on the legality of this provision in the state constitution.

The Commission discussed the effort in the 2000s at the attempt for County-wide assessment. A discussion ensued on re-evaluation efforts via contracting one or more of the assessment functions out. Mr. Windels referenced the situation in the 2000s when it was killed off as corporations were strongly against this re-evaluation effort, and threatened to leave the County. A public referendum might be a way to help mitigate this problem by removing the relevant provision. Mr. Sellier said that combining methods might be less confrontational and easier to implement.

Mr. Zuckerman said it is crucial for the Commission to address whether they leave it the way it is, or if they want to change the system, whether by contract, referendum, or by the CAP system. Mr. Sellier quoted former Legislator William Burton’s opinion of the current system as the “definition of insanity”. Mr. Sellier brought up the issue of the political realities, and the issue of the “wealthy stranger”, but noted that today things were much more transparent and they should be County-wide re-evaluation at fair market value. Mr. Gatta noted that the main thing voters cared about was whether they were treated fairly or equitably. Mr. Steinman stated that this system has endured for so long is that it is a system built on the fear of change, noting that newspapers in the past have added to the fear mongering. Chairman Wishnie stated that historically in Westchester, any time an elected official spoke about re-evaluation; they were typically voted out of office. Mr. Zuckerman stated that education is the key, and that they weren’t just speaking about re-evaluation, but also a County-wide assessment.

Chairman Wishnie stated that they would take a short break and then move on to the next subject. He noted that they had some correspondence from the League of Women Voters if any of the Commission members wanted to look at it, it would be on the website. He brought up possible meeting dates for the next meetings for June 6, 2013 or June 20, 2013.

Chairman Wishnie then moved onto the next topic of the Charter Change Process, presented in another PowerPoint presentation by Dr. Benjamin. The first issue was that change processes are essential elements of basic governing documents, often necessary for fixing a law, or a change in the socioeconomic and political realities of the time. Dr. Benjamin noted the difference between an amendment and a revision in the change process: an amendment altered a single provision, being focused in character and narrow in scope, whereas a revision was a broad, extensive

review and reconsideration of the entire document. He went on to discuss the role of those in power, and change through existing governmental institutions versus bypassing the existing governmental institutions. He went on to discuss the rationale behind implementing a change and the necessary steps in doing so at the state level, and in the present scenario, at the county level.

Dr. Benjamin described some examples of other charter change processes that have occurred in nearby counties such as Putnam or Ulster County. Mr. Zuckerman pointed out that their focus group report looked to some examples such as Ulster County. He continued that they were debating the effectiveness of the 10 year timeline between Charter Commissions or if it should be an ongoing process. Dr. Benjamin stated that the issue with an ongoing process is that it is difficult to produce solutions when there are sometimes no issues addressing the County, whereas if something came up the Commission could point to a future date and state that they were going to address it then.

The Commission discussed membership on the Commission and Mr. Zuckerman stated that one proposal they came up with was having members of the majority and minority parties in the legislature appoint a specified number of members onto the Commission, in addition to the other qualified electors who would be on the Commission. Mr. Gatta also went back to the issue of an ongoing charter review process is that again; partisan politics often got tied in and mixed up with the real issues.

Dr. Benjamin discussed another provision that allowed for the Commission to bypass the legislative body in certain instances. It would allow for them by direct ballot access to reach out to the public in a referendum to address certain issues that might be difficult to reach a consensus on. He explained the logic behind such a provision and how it would function in reality.

The next slide discussed the limits of what could be changed in the Charter change process, and it was the opinion of Dr. Benjamin that there was no singular process for change specified in the Charter. The major issues were the draft design elements of the Charter change process. Mr. Mayo pointed out that the county fell under the State guidelines for Charter change.

Chris Crane asked how the transfer of function would occur between departments if there was a charter change. A discussion ensued on how change could occur within the bounds of existing local law, and how would a department function if it was part of the charter. Additionally, it was debated whether or not the legislature has the ability to change the charter by local law, if the state has the ability to change parts of the charter, and a referendum would impact the process.

Mr. Zuckerman pointed out that some things in the charter were passed by local law along with provisions of the administrative code, both passed by local laws. Dr. Benjamin pointed out that the provisions that require a mandatory referendum are different than legislation because they must be approved by the public. Dr. Benjamin returned to the presentation and discussed how the referendum process partially circumvents the existing government institutions, but eventually must return to the governing body. The discussion on the mandatory referendum for permissive government continued.

Ms. Restiano brought up the point that a governing body can pass a law and then in the future one can change the law if they don't like it. She continued and stated that if something is changed in the charter by referendum it changes the charter and one can't change it by local law. Dr. Benjamin stated that the local government wasn't sovereign under the law, thus subject to the home rule provision of the constitution making the local government empowered by the State.

The discussion continued on altering departments under the charter, and what was needed to be done by referendum. Mr. Gatta stated that one could abolish departments created in the charter. Mr. Adin commented that it was distinguished that the laws in the 100 chapter was part of the charter, and all of the laws in the 200 chapter was part of the administrative code. Ms. Dolgin-Kmetz cited the example of combining the Department of Transportation and the Department of Public works into the Department of Public Works & Transportation; even though it wasn't in the charter it had to go to referendum in order to make the change. Mr. Steinman responded to the Commission's request of giving an example of how a permissive referendum works.

Dr. Benjamin opened the discussion on the third topic he was asked to speak about: the selection of department heads within County Government. He first commented on the mode of selection, whether by appointment or election, along with term lengths and other relevant points. He gave a brief history on the process that began with appointment of County Officials by the state and is now a mixed system of appointments by the County Executive subject to confirmation by the legislative body, along with certain elected positions such as County Judges, District Attorney, County Clerk, etc. The adoption of the County Charter eliminated certain positions such as Sheriff, Coroner, and Treasurer.

Dr. Benjamin discussed the change process for making elective offices appointive along with the corresponding limitations in law. He noted certain qualifications or requirements for some positions set out in state law, such as election Commissioners being appointed by parties under state law. Mr. Binder asked if there was a way, regarding the election Commissioners, to prevent politics from influencing the decision, in structuring charter change. Dr. Benjamin said it was unlikely because you can't get around the state law. Mr. Steinman went back to the point he was making about getting a change in state law to allow specific charter change in Westchester. Mr. Binder clarified his question to specify the change in dates of when they officially took office to minimize the impact on sitting elected officials. Mr. Adin referenced the local law mentioning term limits. Chairman Wishnie also commented that many of these local laws changing term limits didn't go into effect immediately.

Dr. Benjamin discussed the use of manager systems in Charter Counties. In this system the manager appoints positions with legislative advice and consent, and is held accountable to the Board. A question was raised to clarify the meaning of advice and consent to which Dr. Benjamin replied a majority vote or in effect a consensus. There were, however, exceptions such as Board staff or positions reporting directly such as the County Attorney.

Dr. Benjamin discussed the separation of powers in this system, beginning with appointments of the elected executive, noting that legislative advice and consent was again required, although not within the executive office, with the other main exceptions were Board staff or otherwise specified, giving two examples of Broome & Chemung County. A discussion on the current executive's staff ensued along with the issues of succession specific to Westchester County.

Dr. Benjamin addressed consolidation and transition processes in Charter Counties. In some instances the executive can serve themselves as department head without advice and consent and/or could appoint one person as head of two departments, listing Oneida, Erie, and Westchester as several examples. A discussion ensued on the clarity of the language in the charter and how this has been an issue for Westchester in the past few years. Additionally they spoke about how the process has been politicized and what can be done to try and rectify this issue. Dr. Benjamin stated that this has been a major issue on the national level over whether the succession can include the legislative side of government.

Dr. Benjamin talked about the specific charter provision about the powers of the County Executive, including the appointment process. A discussion ensued on the syntax of the language and how the first phrase clouded the specificity of the rest of the provision. The Commission agreed that this was one of the most pressing issues that the Commission needed to look at in order to help reduce confusion in the future. Mr. Geist added that this was very important and gave some history regarding the issue. On another issue, Mr. Geist requested Dr. Benjamin research the appointments process for the Medical Center.

Dr. Benjamin discussed the timely filling of vacancies in various charter counties. In Albany & Ulster County, the executive must make an appointment within 30 days of a vacancy. In Chemung, Erie, & Putnam they must notify the legislative clerk within 10 days of an appointment, and provide to the legislature two weeks in advance of the next scheduled meeting in Ulster County. Depending on the county, the legislature must act on the appointment anywhere from 30 days (Erie) to 60 days (Rockland) after the appointment has been filed with the legislative clerk.

Dr. Benjamin said in the failure of timely action by the legislature, the nomination is confirmed by default and in the event that the executive fails to appoint someone within 30 days, the legislature may make the appointment. In the event that the legislature cannot agree to confirm or deny the appointment within 45 days the appointment is confirmed. For reconsideration after failure of consent, a specified time must elapse before the same person can be reconsidered. One provision in Rockland that Dr. Benjamin wanted to look into further was “When an appointment is rejected by the Legislature, the same appointment may not be resubmitted by the County Executive without approval of the Legislature.” In Ulster County, a rejected appointee may not be re-nominated during the executive’s term, for *that position*, after clarification.

Dr. Benjamin stated that in Charter Counties removal by the appointing authority may be done with advice and consent in Chautauqua County, however it may occur without advice and consent in Nassau, Schenectady, Tompkins, and here in Westchester. The default removal as a result of end of appointing authority’s term is very clear cut, although they may continue performing duties until someone else has been nominated.

A lengthy discussion ensued on the appropriate language and processes regarding job protection and removals in Westchester. The Commission debated job protection of the Commissioners relative to the powers of the County Executive. Dr. Benjamin commented on the fixed terms of specific appointed positions, and the reasoning behind why certain positions should be protected. Generally speaking he believed that the language could be improved. They discussed specifically the Budget Director, the Commissioner of the Department of Health, the Commissioner of Social

Services, and several others not specifically in Westchester. It was agreed further discussion was needed on the issue.

Chairman Wishnie thanked Dr. Benjamin for his time and discussed the next meetings in June. With no other issues, the Chairman asked for a motion to adjourn, given by Mr. Mayo and seconded by Mr. Zuckerman. With all members in favor, the motion passed and the meeting of the Charter Revision Commission was adjourned at 8:49pm.

June 6, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Approval of minutes from May 9, 2013.**
- 2. Executive Succession and Filling Vacancies in Elective Office (Re: discussion at last meeting)**
- 3. Intergovernmental Relations - Executive Liaison and Council of Governments**
- 4. County Clerk - Elected versus Appointed Position - Build on last presentation.**
- 5. Ethics/Inspector General**
- 6. Next meeting June 20, 2013 at 6:00 pm.**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

JUNE 6, 2013

Members in Attendance: Richard Wishnie, Alfred Gatta, Herman Geist, Steve Mayo, Anne McAndrews, Florence McCue, Meissner, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Ronald Volino, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Jeff Binder, Julie Killian, Derickson Lawrence, John Mattis, Paul David Menken, Jane Morgenstern, Guy Parisi

County Staff in Attendance: Melanie Montalto, Stacey Dolgin-Kmetz Justin Adin

Commission Counsel: Lester Steinman, Dr. Gerald Benjamin

MINUTES

With a quorum present, Chairman Wishnie called the meeting of the Charter Revision Commission to order at 6:11pm. The first item on the agenda was the approval of the minutes of May 9, 2013. With a motion by Mr. Zuckerman seconded by Mr. Gatta, the minutes were voted on and approved unanimously with a vote of 12-0.

Dr. Gerald Benjamin gave a PowerPoint presentation on Executive Succession and Filling Vacancies in Elective office. A copy of the presentation is available for review. Dr. Benjamin stated that the importance of the topic was that it allowed for a continuity of government and legitimacy of democratic process. Dr. Benjamin continued and stated that the large number of elected officials, as well as the probability that an individual could die any given year, added to the importance of this issue. He then explained the other ways that it would become necessary to fill a vacancy in office which are removal for cause and resignation. He gave an example of Ulster County which had no way to remove an official.

Dr. Benjamin stated that elections provide legitimacy and democracy while appointments are immediate, automatic, and allows for the continuity of a policy. He continued, stating that while terms of office are fixed the electoral cycle and timing of vacancies making it difficult to create contingencies. He continued, stating that vacancies are often timed to fulfill political ambitions, and filling vacancies can cause a cascade of vacancies in multiple departments. He gave an example that in New York City when filling a vacancy the legal choice was with the city council, the effective choices were with the delegation with the borough delegation and the party chairman of the borough.

Dr. Benjamin then discussed filling a vacancy in the executive office. He stated that most governments take a combined approach where either a designated successor or temporary appointee acts as the executive for a time before a permanent successor can be elected. Dr. Benjamin stated that New Jersey was cited as an example where the Governor died and the head of the NJ Senate acted temporarily as Governor because of a lack of a Lieutenant Governor. Dr. Benjamin then stated that NJ then reintroduced the position of Lieutenant Governor in order to maintain a separation of powers. Dr. Benjamin showed the current rules for succession in Westchester County. He explained that if there is less than 9 months remaining in the County Executive's term then the County Board specifies a department head or other qualified elector to serve in the office. If there is more than nine months remaining in the County Executive's term then there must be special elections no more than 90 days from the vacancy in order to choose a permanent replacement. Dr. Benjamin stated that in some counties the Deputy Executive or the Chair of the legislature fulfills a vacancy in the executive. During the interim the acting becomes executive and the individual chosen to fulfill the vacancy must be the same party.

Dr. Benjamin discussed fulfilling a vacancy in the Legislator. He stated that currently if there is more than 7 months remaining in the term than the office is filled by special election in the office's district no more than 90 days after vacancy. If it is within seven months of the vacancy then the Board can appoint an individual to serve in that capacity for the remainder, but that individual is removed if they desire to run for office. Mr. Zuckerman asked if an appointee to the Legislator is removed from the Legislature if he wishes to run for the same office. Ms. Dolgin-Kmetz clarified that they cannot in order to prevent unfair advantages. Dr. Benjamin stated that there is no worry of timing a vacancy because of the 7 month time period with elections in November. Dr. Benjamin then presented alternative processes from several other County Charters.

Dr. Benjamin discussed the temporary inability of the executive. He stated that this process is begun when either the Executive or another determines that he is unable to fulfill the roles of the office. The individual acting as the executive cannot fire or hire anyone. Mr. Thomas asked about what happens if the Executive is incapacitated and their terms runs out and they are nominated by their party run for the office again. Dr. Benjamin stated that he has no answer for the question currently. Dr. Benjamin then begins discussing Executive Absence, noting that while it would be difficult for the Executive to be out of touch in modern times the provision could be used for mischief. Mr. Geist pointed out there is currently a list of people who could act as the Executive if the Executive is absence. At Mr. Zuckerman weighed in that there could be a provision specifying time allotment. At Mr. Thomas it is brought up that if there is an accident that occurs, such as at a nuclear plant, then someone must be prepared to take control.

Dr. Benjamin stated that the Deputy Executive or an individual appointed by the Executive shall act as the Acting County Executive. In this case the Acting County Executive shall have all powers of the Executive except the power of removal. Mr. Geist stated that previously there was no Deputy Executive. Dr. Benjamin then stated that if the County Executive fails to appoint an individual to designate a successor then the County Legislators may appoint a department or executive head. He notes that in Rockland should the Legislators fail to appoint an individual then a special election is to be held. Mr. Geist said that at one point the Party head would choose the individual to serve in the Executive capacity. Dr. Benjamin counters, stating that that process was what New York City was trying to avoid by having an anti-party bias.

Dr. Benjamin stated that in Ulster County the Executive can only choose from a list confirmed by the Legislature, or that they must be the same party as the Executive. He stated that Westchester currently requires that the Legislature approve of such a list of succession. Dr. Benjamin then uses the appointment of Anne Rice as the National Security Advisor as an example of an appointee who could not be part of the chain of succession. He then stated that Ulster County is the only county where the Legislature can claim inability of the Executive, as long as it is verified by a competent medical authority. Mr. Sellier asked if the competence of the executive has been questioned, which Dr. Benjamin confirms it has not.

Mr. Geist asked who the head of the model charter, which Dr. Benjamin stated he will look in on. Dr. Benjamin sums up the issues as the degree of which they want to rely upon appointments or elections to ensure continuity of government, and the time period to determine if a special election is warranted. Mr. Mayo asked if an alternate list could be created of a list of non-office holding individuals to prevent a cascade of vacancies. Dr. Benjamin stated that there is no insurance they will accept positions, but an alternative would be special elections for more positions although it could cause too many elections. Mr. Sellier asked Dr. Benjamin if he feels inability is an important thing to consider, to which Dr. Benjamin affirms as an important issue to at least discuss. Mr. Thomas asked if there is recall legislation in the county. Dr. Benjamin stated there is no recall provisions in NYS but the county could include them in a revised charter. Dr. Benjamin gives an example of California of how recalls can be abused by ideological lines so legislation would have to be mindful. Mr. Thomas asked if a deliberative body would have to be created in order to determine inability. Dr. Benjamin stated that there would be several reasons with which one might want to remove an individual.

Dr. Gerald Benjamin gave a PowerPoint presentation on Intergovernmental Relations. A copy of the presentation is available for review. Dr. Benjamin stated that there are provisions in most charters that allow local governments to cooperate, and thus encourage cooperation. The committee then discussed the intergovernmental processes

within Westchester, and inter-municipal relations between counties. Dr. Benjamin uses a Suffolk provision of Suffolk County which allows interaction with Nassau County, and stated that Nassau would have to have a reciprocal provision as well under State law.

Dr. Benjamin used Schenectady County as an example of how a charter change cannot take away powers from other local governments. Dr. Benjamin then explained that in Ulster County there is an Intergovernmental Collaboration Council that is charter based. He stated that this is a failed provision because it depends too much on the Executive who claims to create collaboration in other ways. Mr. Steinman pointed out that when it comes to intergovernmental cooperation all of the local governments, including school districts, are included in the process. It is discussed that it is important to include all levels of government in the collaborative process. Dr. Benjamin stated how school districts were created to depoliticize schooling, and how collaboration would have speed up changes. The committee discussed the various ways that collaboration could benefit schools and necessary services, as well as the various difficulties of dividing school districts and local governments. Dr. Benjamin points out that BOCES is an important example of collaboration with which services are better rendered across districts.

Dr. Benjamin discussed types of non-charter based ways of intergovernmental collaboration. He then discussed Regional Planning Councils which are created by local governments, act in an advisory capacity, and have flexibility on authority for policy.

Dr. Benjamin used the Westchester Municipal Officials Association as an organization that is related to the charter. Mr. Geist brought up the Metropolitan Regional Council as an example of another such organization. The committee then discussed a council of governments which is just really meeting of different local governments which is an informal council. Mr. Zuckerman asked if Yonkers has ever attended the Municipal Officials Association. Ms. Restiano stated that yes Yonkers has attended their meetings. Mr. Steinman stated that the various cities in Westchester have a variable participation within the Municipal Officials Association depending on leadership.

Ms. Restiano pointed out that if the Association was a formal organization then it would promote participation. Dr. Benjamin suggested that the county not set the agenda but the participants had equal standing on setting the agenda. He continues with an example of the county's collaboration with Kingston for sales tax as well as the civil service efficiency, and how a formal intergovernmental venue could help better deal with such concerns.

Mr. Steinman pointed out that the setting of the Municipal Officials Association's schedules switches between the County Legislature, the County Executive, and the Local Governments. Dr. Benjamin presents several different councils of governments from other counties and each of their purpose and membership. Chairman Wishnie asked if it

was possible to mandate local governments to participate in a council. Dr. Benjamin responded that you could not mandate participation but instead try to create incentives in order to promote participation. Ms. Restiano suggested that the council should be flexible on local participation to encourage local governments to come when they see benefit. Dr. Benjamin used the Northern Westchester Energy Action Coalition and Southern Westchester Energy Action Coalition as an organization that provide benefits and thus encourages their participation even with a monetary commitment. Mr. Steinman made the point that the structure of such organizations was not able to handle greater authority and suggested creating a public authority to fulfill the same roles.

Mr. Wishnie discussed the Town Supervisors Association. Dr. Benjamin stated that making such associations charter based would open it up to additional resources Ms. Restiano stated suggested making an association like a bid like in Yonkers. Ms. McAndrews discussed whether basing organizations around a unifying cause would be beneficial to attracting interests. The Commission took a brief recess and then called back to order.

Dr. Gerald Benjamin gave a PowerPoint presentation on Ethics. A copy of the presentation is available for review. Dr. Benjamin noted that state law requires localities to adopt a code of ethics. Mr. Steinman noted that it was guideline for conduct and not really for establishing criminality. Mr. Steinman clarified that a criminal violation would be prosecuted by the District Attorney while a violation of the code of ethics would be prosecuted by the Board of Ethics.

Dr. Benjamin cited Mark Davies and explained that the point of a code of ethics, specifically to guide honest officials. Davies notes the three keys elements of ethics are precepts, rules, and administration. He further noted that it required an ethics code, disclosures, and an Independent Committee to interpret and enforce. He recommends that a committee should have a size of 5 to prevent factions and missed quorums, have an appointing authority, and have final authority over all matters of ethics. He explains the four duties that such a committee would have. Dr. Benjamin then noted the make-ups of other ethic committees of other counties. He then cited the appointing authorities of other counties. Dr. Benjamin then reviewed the Model County Charter for a Board of Ethics. Chairman Wishnie asked if they have subpoena power to which Dr. Benjamin responded in the affirmative. Mr. Steinman noted that state law requires a code of ethics but not a Board of Ethics, nor does a county board of ethics automatically supersede that of local municipalities. Dr. Benjamin then reviewed the current Westchester County Charter rules for the Board of Ethics and its powers. Dr. Benjamin clarified that the Board of Legislators determines the Code while the Board of Ethics delivers advice on code creation. Ms. Dolgin-Kmetz gave an example was given of Board of Ethics transferring information to the District Attorney. Mr. Thomas asked and Mr. Steinman explained

where the line was drawn between Human Resources and the Board of Ethics, and which issues would go to which group. Dr. Benjamin said that the Human Resources Department isn't the formal authority on governing actions. Mr. Steinman stated that Ethics governs external influences on the job. Mr. Thomas asked about the fines for ethics violations. The Commission noted that the Board has the ability to both fine and remove offenders from office, and that there is the capacity for legal appeals. Dr. Benjamin then reviews the additional powers that the Board of Ethics possesses. Dr. Benjamin then explains the purpose for an independent consultant.

Dr. Benjamin then affirms that he is reviewing budgeting. Dr. Benjamin stated that he has found no examples of the county clerk being appointed, and that he will do further research.

At the suggestion of Mr. Windels, Mr. Wishnie stated that we will invite District Attorney Janet DiFiore in to discuss the JCOPE due to her experience as the chair.

Mr. Zuckerman raised three issues. The first was increasing the term for the legislature from two to four years. The second issue was a reduction in the number of legislators and the third is impartial redistricting. Ms. Restiano stated that she is not going to support anything that she feels will not be passed by the legislature.

Mr. Windels stated that they should also hear from someone on the Board of Ethics, or from one of the local government Ethic Commissions. Chairman Wishnie stated that we will find out who the members are and when they last met.

Chairman Wishnie noted that they were soon moving into the next phases of preparation. He stated that the Commission will meet to make decisions on items for the final report and then a draft will be created. He said after the draft is complete a public hearing will be held, and then the final report will be issued.

Chairman Wishnie stated that it will be hard to have full Commission meetings over the summer, but the Steering Committee will probably meet.

With a motion by Mr. Zuckerman seconded by Ms. McCue the Charter Revision Commission adjourned at 8:05 pm.

CHARTER REVISION COMMISSION

June 20, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Presentation on Ethics by Mark Davies, Executive Director of the NYC Conflicts of Interest Board**
- 2. Presentation by Dr. Steven Friedman, former Commissioner of the County Department of Social Services and Community Mental Health**
- 3. Presentation on Capital Planning & Budgeting by Dr. Benjamin**
- 4. Presentation on the Office of County Clerk**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

JUNE 20, 2013

Members in Attendance: Richard Wishnie, Alfred Gatta, Herman Geist, Derickson Lawrence, Anne McAndrews, Paul Meissner, Vincenza Restiano, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Jeff Binder, Julie Killian, John Mattis, Steve Mayo, Florence McCue, David Menken, Jane Morgenstern, Guy Parisi, Ronald Volino,

County Staff in Attendance: Melanie Montalto, Chris Crane

Commission Counsel: Lester Steinman

Commission Consultant: Dr. Gerald Benjamin

MINUTES

With a quorum present, Chairman Wishnie called the meeting of the Charter Revision Commission to order at 6:09 pm. Chairman Wishnie introduced the evening's guest speaker, Mark Davies, Executive Director of the New York City Conflicts of Interest Board. Mr. Davies introduced himself, and specified that he was speaking for himself and not the New York City Conflicts of Interest Board. Mr. Davies passed out an outline of his remarks.

Mr. Davies first introduced the basis for ethic laws for municipalities. His explained his two cardinal principals. He then explained that most players in ethics reforms don't usually understand the purpose of ethics laws, and that until there is an understanding it is difficult to reform the laws.

Mr. Davies explained that the purpose of ethics laws is to prevent a breach of ethical conduct. Effective ethics laws promote a reality and perception of integrity, focusing on prevention instead of punishment while also ensuring that the public has a stake in the ethics system. Although people seeking to abuse their powers will disregard rules, rules are there as a guide for the majority of honest people. He went on to explain that they are also the basis for preventing conflicts of interest.

Mr. Davies described the three pillars of an effective ethics law, with the first pillar being a simple code of ethics. The second pillar is comprised of sensible disclosure. Finally, the third pillar is the establishment of an ethics board. He then explained several different critical ethical regulations, for public officials during and after service in government that would be included in a code of ethics. He continued on citing examples of less common, but critical rules municipalities sometimes have. He advised that Article 18 of the New York State General Municipal Law be included in a code of ethics to prevent confusion.

Mr. Davies went on to explain the three different types of disclosure. He explained that a transactional disclosure is the most common interest, usually accompanied by a recusal. He continued that a transactional disclosure is the most important and least controversial, and must be available to the public. The next type of disclosure he described was an applicant disclosure. While uncommon, it needs to occur when private citizens or businesses looking to do business with the government or obtain permits and/or licenses disclose their information. He next explained the last and most controversial disclosure, annual financial disclosure. He stated that most officials use this in order to cure their ethical ills, although he was of the opinion that it didn't work. He went on to say that annual financial disclosure allows the public to know where the filer's conflicts of interest may lie. Additionally, he explained that some municipalities require officials to read a summary of ethics laws every year. Mr. Davies explained that ethics laws do not catch criminals.

The commission asked if financial disclosure requires revealing an individual's source of income. Mr. Davies confirmed that it did. At this point Chairman Wishnie asked that all questions be held until Mr. Davies finished his presentation.

Mr. Davies noted that the public has no more right to know an official's financial information (that doesn't produce a conflict of interest) than they do of an official's relationships. He continued on stressing that that type of information shouldn't be forcibly disclosed and that only information relevant to the specific conflict of interest need be revealed. He stated that the disclosure form must be tailored to the ethical code.

He then explained that the success of an ethics law rests on the body that administers the law, stating that the body must be independent of all public officials subject to its jurisdiction. The criteria for members serving on that body began with selecting qualified volunteers with integrity who served for a fixed term. Additionally, they held no other government positions, nor were party to any government contracts, engaged in lobbying, or represented the government. Finally they could only be removed from the body with just cause.

Mr. Davies explained that split appointments should be avoided because it causes factions and leaks, as demonstrated by New York State. He explains the best practice is that the appointees should be chosen by the chief executive and approved by the legislature. The board should appoint its own independent staff and as well as serve as the sole interpreter of the ethics code. The four primary duties of an ethics board are legal advice, ethics training, administrative disclosure, and enforcement of rules. It has to provide timely, confidential advice on the legality of all future conduct under the code as well as provide public waivers for conducts. The ethics board must train officials so that they understand the ethics law in order to properly administer the disclosure system and also must have the authority to enforce the ethics law. He explained that without authority it prevents the ethics board from carrying out its purpose. He continued on stating that its investigations must remain private until a formal complaint is lodged, giving an example of Albany's revision of its ethics laws in 2004.

Mr. Davies then moved onto his assessment of Westchester's ethic laws, assessing it as a medium for its level of effectiveness. He explained that the preamble could be expanded to list the values essential to public service and that the definitions section is too complex and lends itself to creating confusion. He noted that the standards of conduct need revision, and gave several examples of issues with the current standard. He suggested a bright line rule, giving an example of its usefulness. He explained that confidential information should be defined, and should be expanded so as to prevent the use of confidential information. He commented that the revolving door provision is anemic, and currently only applies to high level officials, permitting most former officials to work on matters they may have formerly dealt with, allowing them to solicit and accept jobs from a firm that the official is dealing with there, but not in their capacity as a vendor for the county. He explained the revisions that he would make to the revolving door provision and gave examples of several other provisions and other current rules that should be added to the ethics code, or otherwise be clarified.

Mr. Davies went on to explain that changing annual disclosure is difficult, and reiterated that only pertinent information should be disclosed. He stated to be more effective, the form could be potentially shorter. Additionally, the board should be given the power to fine for late filings. He added that a provision should be added to ensure that a member of the ethics board should not be an employee subject to the board's jurisdiction. He stated that the board should have a mandated budget, or the legal department lends it its staff. He noted that only the ethics board should have the power to grant waivers. Finally he discussed the apparent lack of clarity as to the board's power to investigate and pursue fines, as it presently doesn't have the power to pursue fines for conduct violations besides disclosure form problems. Mr. Davies expressed confidence that these revisions could be implemented with relative ease.

A Commission member asked whether or not the ethics board should be compensated because of the relative effort that must be put in to carry out their duties. Additionally, it was raised as to how leaks could be prevented if they borrow staff from other departments and how to make the laws more effective to prevent and catch violations. He continued, asking how their laws should crossover with state and federal laws.

Mr. Davies explained that the system for an ethics board's operation varies depending on the municipality. He explained that although the ethics board must be independent, it is not a perfect system, citing difficulty in hiring staff for the ethics board. Mr. Davies explained that pro bono work encourages independence. He used NYC as example where their ethics board is given an appropriate stipend. Adding that if the ethics board is not paid then in all likelihood there wouldn't be sufficient time for investigations, thus forcing them to hire outside help, which could prove costly. He reiterated that the method varies from place to place but he recommends using staff from other departments, subjecting them to a non-disclosure penalty.

A commission member stated that in his experience, if a high level official is under investigation, generally they seek outside counsel early on in the process, citing White Plains as an example, with the other commission members agreeing.

A commission member explains that other boards, such as zoning or planning, aren't paid, and suggested that a volunteer board might be more effective. She continued on questioning earlier statements made because of the lack of perceived corruption. It was clarified that former legislators have made statements that implied corruption, resulting in a major trial. There was further clarification as to the purpose of examining the issue to make sure the rules are the best suited for the present situation in light of former issues.

Chairman Wishnie explained that while most government is honest, at some point there will be individuals who may not be one hundred percent and the purpose of the code is to guide them. He continues, cautioning that many violations come during periods of political excitements so that violations must be examined carefully. Mr. Davies referenced Phil Zisman as someone who is very knowledgeable on the topic. The Chairman obtained a consensus that they would like to have Mr. Davies back.

Mr. Windels asked Mr. Davies if he was qualified to address the issue of preventing corruption through a local ethics code. Mr. Davies indicated that he did not feel comfortable addressing that issue. Mr. Davies elaborated that they should not wait for the state ethics laws to change. The comment was raised that they can change the ethics laws

to be either equal or greater than the state law. At this time Mr. Davies finished his presentation and the committee thanked him.

Mr. Wishnie introduced former Commissioner of Mental Health Steve Friedman, who gave a brief outline of what he would be speaking about during the meeting. Dr. Friedman spoke about the process that resulted in his holding the positions of both Commissioner of Mental Health and Commissioner of Social Services. Dr. Friedman shared that in his experience by having one commissioner run two departments you lose a lot of time and experience for relatively little savings. In his opinion most of the large departments wouldn't benefit from merging, and that most of the smaller departments which could easily be merged already have been. Also, in his opinion he believed that some of the large departments are already too large to be most effective. Dr. Friedman then talked about the breaking up of the New York State Department of Social Services into smaller offices to provide services. In his opinion there should be a department in county government that merges groups to correspond to the State's service delivery structure.

A commission member asked what the difference was between the County's Department of Social Services (DSS) and the State's Social Services Office – specifically how they are funded. Dr. Friedman explains that the county department is funded by both the county and state. It was noted that the county pays for 71% the cost of providing these services, with Chairman Wishnie noting that DSS is the largest department in terms of funding and staff in the county. It was noted that the majority of funding used to come from the federal and state levels, but now it's largely county. A commission member asked if Medicaid is the most dollar or personnel intense in the County. Dr. Friedman then explained that it's largely State-run now although the State charges the County for it, continuing by describing how Medicaid became a large portion of the budget. Dr. Benjamin stated that state and local funds are matched with the federal funds, and while there have been attempts to change this, historically they have failed. It was noted that New York has an additional safety net. Dr. Benjamin added that it's part of the New York State Constitution that it provides for the State to take care of the poor.

A commission member asked if the Medicaid contribution was being phased out, to which the commission members generally confirmed that the amount the county must pay has been capped despite the cost continuing to rise. Dr. Friedman states that he believes that the County would function better with the state if it broke up a department that was too large. He gave an example of what functions could be moved around along with the changes the state has already made. It was then noted that the County Executive of Chautauqua County had made a move such as Dr. Friedman was describing. He continued describing how he would arrange the functions between departments,

specifically discussing the Health Department, describing the three functions as environmental concerns, state health, and client services along with the actions each function requires. He suggested an Office of Family and Child Services, as well as an Environmental Department, and removing their functions from the Health Department in order to improve each of the services.

It was noted that New York City merged their Department of Health and Department of Mental Health. Dr. Friedman stated that the general feeling of the mental health committee was that it was a disaster due both a lack of knowledge on issues by its leaders as well as different operating procedures. Dr. Friedman explained one of the beneficial programs that came out of the Department of Community Mental Health was one in which they found people who had been arrested who were suffering from mental health issues. In his experience the best recommendations for the referrals came from the District Attorney's Office rather than the defense attorneys. The commission discussed the complex bureaucratic process where the state passes down contracts to the county, with the county doing most of the ground work. Dr. Friedman added that the Office of Children and Family Services runs all the secure and non-secure detention facilities.

A commission member asked if bureaucracy was getting in the way of helping the mentally ill individuals. Dr. Friedman replied that part of the problem was the public's perception and the hostility that patients face. Additionally, the fact remained that for most mental illnesses there is no cure and little understanding of causation, which can add to the stigma. It was asked whether or not the home rule applied, and if they can make their own decisions. Dr. Friedman answered that for the most part they can control it, but in some cases the State will step in. Dr. Friedman explained his suggestions to help improve departmental efficiency and focus. Dr. Friedman further explained that they can add departments to the charter, and that the state creates offices instead in order to get around changing State law. Dr. Benjamin notes that New York State can only have 20 Departments, but realistically have more but call them offices instead. Dr. Friedman uses the Department of Mental Hygiene, but that they have three offices inside of it each with their own commissioner.

Chairman Wishnie notes that Dr. Friedman has the expertise, and asks that he provide written suggestions with which they can use. It was stated that as long as they attempt to make things work better, than they've done well. He continued that the Medical Center's Psych Ward has lost many of its functions. Dr. Friedman responded that the Medical Center volunteered to give up many of the programs and that the County outsourced corrections. A discussion ensued on the State merging its alcohol and substance abuse services along with the potential impacts it might have. A commission member noted that while they probably can't do much to change the state there is much they can do to help

Westchester. It was noted that the commission's goal was to revise the charter, and that reorganizing the government is a different animal, though the counterpoint was made that their goal was to use charter changes to affect positive change in Westchester. Chairman Wishnie stated that if they can make everything more efficient than they've done a good thing. It was the general consensus that it would be beneficial if each group can be more focused and that that they have the power to make suggested revisions.

At that time Chairman Wishnie reiterated they obtain written suggestions for department reorganization so that they may convey them to the Board of Legislators and the County Executive. The question was raised if they would need to add the powers to the charter, or if it is already provided for. It was explained that they already have the power, but should only recommend changes and point out what they can do so that others can determine what action they should take. Additionally it was asked whether it would require a referendum change, which was answered in the negative, and if there are other departments they should look at. Mr. Wishnie stated that he knew that mergers would inevitably come up.

A commission member noted that they are focusing on certain departments as they account for approximately forty percent of the budget. A discussion ensued on whether a recommendation versus a charter change would be the appropriate course of action. It was stated that because they weren't making it a referendum they should put forth their recommendations for the elected officials to decide, though it was also noted that public input was needed for such an issue. Dr. Friedman believed it to be an executive function, although the charter could change it. The committee thanked Dr. Friedman, and expressed interest in having him back. At this time the Chairman called for a brief recess.

After returning from recess Dr. Benjamin began his presentation on capital planning and budgeting, explaining that it is a complex subject, and thus he may not get through the whole presentation. His five major topics were inventory, maintenance, the planning process, plan approval/adoption, and budgeting. Dr. Benjamin explained that many people don't attribute this to the charter, but that there has been activity in New York showing that they apply.

Dr. Benjamin explained the definition of capital assets. He further explained that the definition of capital asset is locally adopted, that the minimum asset value for Westchester is \$50,000, and in Westchester has to be useful for at least one year. He continued, stating that the NYS Comptroller must provide financial oversight for local governments, specifically a Unified System of Accounts, and is required to adhere to the Generally Accepted Accounting Principles. He then explained that every government must release a Comprehensive Annual Financial Report. It was pointed out that it's a

Non-Governmental Organization rule, thus it's not required, rather being a response to market forces. Dr. Benjamin pointed out that they should be mindful not to run afoul of some groups as they have a responsibility to numerous groups. Dr. Benjamin next explained the GASB 34, quoting Anne Marie Berg that the County maintains separate guidelines for each function, has a five year capital improvement plan, and reviews the policies on an annual basis.

Dr. Benjamin next discussed inventory directly. Dr. Benjamin explained that an inventory helps create a budget because it helps governments account for their assets along with what they may need, as required by GASB 34. He stated that the counties change in investment in capital assets, and presented a page from Westchester's CAFR.

Dr. Benjamin began to discuss maintenance. He stated that maintenance, politically speaking, was necessary and behind the scenes for the most part, however new construction is highly visible. He then presented the requirements for NYC maintenance as an example, explaining that the presented requirements were put in by Richard Ravitch in order to revitalize the subway system. Mr. Ravitch believes the current requirements need teeth in order to make them effective. Chairman Wishnie spoke as to his former experience, and how the Commissioner of Public Works suggested implementing a rigorous system to keep track of maintenance. The committee then discussed whether or not it should be charter based. Dr. Benjamin further explained the maintenance requirement. Mr. Windels suggested that to really give the system teeth, every time you borrow money on that asset there should be a reporting requirement in place, with a discussion ensuing on the example of the Tappan Zee Bridge.

Chairman Wishnie moved the discussion along and back onto the presentation. Dr. Benjamin's next slide discussed Planning, specifically mentioning the timeframe for the process, its coordination and subsequent presentation. Mr. Geist asked about controls to ensure meeting the timetable after adoption of a plan. Dr. Benjamin stated that his question may be answered as they continued the presentation. He continued on, discussing the current system in Westchester County, noting that it seemed to be relatively more dominated by the Executive compared to the Legislative Branch.

He continued explaining the 5 year capital plan, emphasizing the critical elements for project selection of 1) Necessity 2) Priority 3) Location 4) Cost & 5) Method of Financing. It was noted that in Westchester a fiscal impact statement was required to be included in bond acts for each project, although Dr. Benjamin noted the process could be clarified. He then moved onto important additional criteria that needed to be met along with several of his own suggestions such as the plan being longer than 5 years, as well as factoring in resilience (emergency preparedness) and sustainability. He showed a map of

flooding areas and a chart of wastewater facilities noting that the County should be considering this, citing the recent major storms. A question was raised on some of the language, to which Dr. Benjamin stated there would be a definitions section. Additionally, he noted that amending the capital plan in Westchester was initiated by the County Executive, not the Board of Legislators; however this was not the case in other counties in New York, citing Suffolk County and describing some of the examples. The reasons for this in Suffolk stemmed from the massive scandals over some capital projects. He referenced the earlier discussion about laws being changed in response to the current situation, stating that the numerous controls in place and the detail of the plan in Suffolk County was in response to them. Additionally, there were very specific details on what happened to the unspent balance of funds on completed capital projects, as well as public hearing requirements that brought very public attention to each capital project.

Dr. Benjamin moved onto the year-to-year operation and sunset of capital projects, addressing Mr. Geist's earlier question about whether Planning was "real". If projects are continually pushed back or remain stuck in a certain phase then the process couldn't be considered "real" to which Chairman Wishnie commented that this occurs in Westchester. Dr. Benjamin stated that in his research he found it to be instructive to compare yearly 5 year plans citing the example of what happened in year two was distinct from what was projected to happen in year two. A potential remedy would be a sunset provision if a project had no funds expended on it. A discussion on this issue ensued, with some comments on the recent Stormwater Management Law and its impacts in Westchester on the process.

Dr. Benjamin talked about provisions for the annual capital budget along with its format and practices in reality, showing a page of the County Capital Budget that displays how the County meets the requirements of the Charter along with expenditures. He gave his recommendations as to what would help distinguish the capital budgets process and capital planning projects. With no further questions Dr. Benjamin moved onto his final presentation.

His final presentation came back to his prior discussion on the function of the County Clerk as well as what other counties had to say on the office. He first went over the state provisions establishing the office of County Clerk. He and Mr. Steinman engaged in a discussion on the process of making elective offices appointive, in which Mr. Steinman believed that changing the mode of selection did not affect the functions and powers of the office. He continued by presenting the definitions and requirements of the county clerk in other counties, such as a residency requirement, term limits, or ensuring no conflict of interest. He continued discussing the history of the office explaining how the criteria had changed in response to each political climate of the time.

He went on to describe the functions of the clerk in non-charter counties, which by and largely was administrative support, although some counties such as Monroe County had characteristics of both. In other upstate, rural counties, the clerk also served as the commissioner of jurors, management of records, primary public information officer, and an agent for the DMV in 51 counties. He continued discussing unique provisions to prevent abuses of power such as paying over fees in Tompkins County. In Westchester duties of the clerk that weren't specified in the charter were maintaining legal and land records, organization and support of court functions, along with issuance of various permits among others. A discussion ensued on changing the office to an appointive office, along with the potential consequences at state level. A question about the clarification of specified vs. non-specified duties of clerk was raised and answered.

Chairman Wishnie stated that they would be adjourning shortly and asked if there were any further questions or discussions members would like to rise. He briefly discussed the upcoming schedule and the course that the commission would be taking.

With no further items to discuss, Mr. Zuckerman made a motion to adjourn that was seconded by Mr. Meissner and the meeting of the Charter Revision Commission adjourned at 8:38 pm.

CHARTER REVISION COMMISSION

September 12, 2013

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CHAIRMAN

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Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order**
- 2. Approval of minutes:**
 - **June 20, 2013**
- 3. Comments from District Attorney's Office**
- 4. Presentation by Dr. Gerald Benjamin on initial list of resolutions for consideration in Final Report**
- 5. Other Business**
- 6. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

SEPTEMBER 12, 2013

Members in Attendance: Richard Wishnie, Alfred Gatta, Herman Geist, Derrickson Lawrence, John Mattis, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Jeff Binder, Raymond Belair, Julie Killian, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Dr. Ronald Volino

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Anand Singh

Commission Counsel: Lester Steinman

Commission Consultant Dr. Gerald Benjamin

Guests Beverley Sved, League of Women Voters

MINUTES

The meeting of the Charter Revision Commission was called to order at 6:06 PM. Chairman Wishnie thanked the commission members for coming and briefly went over the agenda for the evening. Chairman Wishnie noted that they would hold off on reviewing the minutes from the meeting of June 20, 2013.

Chairman Wishnie first recounted his conversation with Westchester District Attorney, Janet DiFiore regarding the prosecution of government corruption in Westchester County. District Attorney DiFiore described the process her Office uses to investigate corruption allegations and noted that there would not be any charter changes that would aid her Office's prosecutorial efforts. He then moved on to briefly discuss the letter submitted to the Commission from Legislator Shimsky regarding the lack of confirmation of several of the County Executive's appointees to various positions. It was noted that they would be discussing this later on in the evening.

Chairman Wishnie began by addressing the nine items that they would be discussing and voting on this evening. He requested that everyone abide by the rules and follow proper protocol so that they could get through everything that they needed to cover. Mr. Thomas pointed out the number of members in attendance and asked what would constitute a

majority, to which Chairman Wishnie stated that a simple majority would; noting that the minutes would reflect what had transpired in the meeting.

He stated that a draft report would be prepared in the next several weeks and a public hearing held sometime after Election Day, in order to avoid the process becoming politicized. He added that the commission's findings would be presented to the out-going board to which, Mr. Zuckerman asked if it would make more sense to address the new board, to which, Chairman Wishnie stated they would consider this.

Chairman Wishnie thanked Dr. Benjamin for coming and Dr. Benjamin began by discussing his presentation for the evening. He briefly discussed the disclaimer on the first page that would serve as a guide for the presentation. Following the order of business, he began by discussing the resolution pertaining to the establishment of a Parks District, and the subsequent section of the Charter that would need to be amended. Chairman Wishnie added some background on this proposal. A discussion ensued on the item's merits and Chairman Wishnie then asked for a motion to support this. With a motion by David Menken, seconded by Paul Meissner, the motion was defeated ten to two, with Mr. Menken and Mr. Meissner voting in the affirmative.

Dr. Benjamin went onto the second order of business, presenting a proposal regarding the reconstitution of the Playland Commission. The recommendation provided that the Playland Commission be reconstituted and re-empowered to operate Playland Park. Counsel gave some background on the history of the Playland Commission, noting that the County has not acted on the State enabling authority conferred on the County to reconstitute the Playland Commission since 1983. Ms. McCue raised an objection to the language and questioned what its impacts would be and that priority had to ensure the County continue operation of the Park, and not turn control of it over to someone else. Mr. Zuckerman began a discussion on the present situation with Sustainable Playland and the County, with the failings of the Medical Center being noted by Chairman Wishnie. Mr. Sellier asked how the officers of the Playland Commission would be appointed to which Counsel clarified and stated there would be five County Executive appointees and four Board of Legislator appointees. Chairman Wishnie stated that they may want to defeat this and replace the resolution. Mr. Thomas asked how the signing of the contracts would affect this and Mr. Windels asked if there is anything that prevents the Board of Legislators from reconstituting the Playland Commission in the future, to which both inquires were responded to in the negative. Mr. Zuckerman asked what was wrong with keeping the status quo to which Ms. Dolgin-Kmetz and Mr. Adin stated that the Charter isn't clear. A discussion ensued on how they might amend it, and after a discussion Chairman Wishnie asked for a motion. Mr. Windels suggested they table it for now. With

a motion to table by Ms. McCue, seconded by Mr. Windels, the commission unanimously agreed to table the item.

Dr. Benjamin moved onto the next topic of the Council of Governments, going over the questions that were raised regarding this, and the related resolution. A brief discussion ensued on the questions raised by Dr. Benjamin in his presentation. Chairman Wishnie asked for a consensus on whether they believed there should be a Council of Governments to which Mr. Steinman addressed some of the reasons for its establishment. Mr. Zuckerman asked how it would affect about the Municipal Officials Association to which Mr. Steinman replied that it wouldn't. The details over leadership of the Council were debated, with the general consensus leaning towards Mr. Gatta's recommendation of alternating chair positions being held by the County Executive and a representative of the Municipal Officials Association. The frequency of meetings along with the need for emergency meetings was addressed by commission members. Mr. Sellier expressed his opinion that this was an opportunity to facilitate communications on various governmental levels. Chairman Wishnie then asked the commission to address the issue of leadership, to which Mr. Gatta responded there should be alternating co-chairs composed of the County Executive along with a representative of the Municipal Officials Association. With a motion by Mr. Gatta, seconded by Mr. Zuckerman, the resolution was adopted as amended with 10 votes in favor of it and 3 against it (Mr. Thomas, Mr. Mattis, and Mr. Windels being opposed). Dr. Benjamin noted that regarding the frequency of meetings, the current chair might have a vested interest in not holding a meeting so as to avoid discussion on a particularly controversial topic for example, thus potentially disadvantaging municipalities. Chairman Wishnie asked for a motion to further amend the resolution calling for a minimum of two meetings per year. With a motion by Mr. Gatta, seconded by Mr. Sellier, the resolution passed with 11 votes in favor and 2 votes against it (Mr. Menken and Mr. Mayo opposed).

The next item up for discussion was the resolution recommending the position of County Clerk be changed from an elective office to an appointive office. Chairman Wishnie briefly covered current County Clerk, Tim Idoni's testimony before the Commission. Mr. Menken asked if this was a common practice in New York State to which Dr. Benjamin stated that this would be the first instance in the state. Although Dr. Benjamin was concerned about the legality of such a recommendation, Mr. Steinman believed this to be an achievable endeavor. Mr. Steinman gave some further background information and a discussion on whether this was a Home Rule issue or was under the purview of the state. Dr. Benjamin stated that it was a ministerial, not policy-making position. Mr. Windels expressed some concern about the wording and Mr. Thomas expressed his concern about the Commission possibly over-reaching its authority. Chairman Wishnie asked for a consensus if the Commission thought making this recommendation was a good idea. Mr.

Steinman agreed with Mr. Windels' desire for clarification, although the Board of Legislators may end up simply putting this to referendum. Mr. Adin stated for such a change to occur in the County the Board of Legislators would still have to submit a home-rule request. Mr. Menken believed the language was appropriate as is and Chairman Wishnie noted that he believed the state would probably not allow this and they shouldn't spend too much time on this. Dr. Benjamin stated that the Clerks Association supports the principle that they're constitutional officers and would not likely support a change. Ms. McAndrews and Mr. Sellier expressed some doubt to the resolution's merits and Mr. Zuckerman stated that members should vote simply on whether they believe this to be the best process, as their job is to simply offer the best solution. Mr. Windels discussed separating the functions of the County Clerk and a discussion ensued. A motion to adopt the resolution as stated was made by Mr. Menken and seconded by Mr. Lawrence. With 11 votes in favor and 3 votes opposed the resolution passed. (Mr. Windels, Mr. Sellier, and Ms. McCue opposed). Mr. Menken noted recommendations shouldn't be based on whether it would succeed or fail and the office would work similarly to how the budget director is appointed for a fixed term. With a motion by Mr. Menken that the County Clerk be appointed by the County Executive for a fixed term of four years with consent by the Board of Legislators, seconded by Mr. Gatta, the amendment unanimously passed.

The Commission took a short recess and the meeting was called back to order at 7:24 PM. Dr. Benjamin began with the resolution regarding the appointments process. The commission discussed the letter submitted by Legislator Shimsky detailing various County Officials whose appointments have not been confirmed by the Board of Legislators but were still serving, illustrating the need for clarification. Mr. Thomas asked for Chairman Wishnie's experience on the matter although he declined to answer to avoid swaying members' opinions. Mr. Thomas asked if there was a consequence for the CE failing to fill a position and Dr. Benjamin has seen default appointment process although this varied by County. A discussion on whether or not an appointment might be seen as necessary, thereby removing the need to appoint someone to it arose. When questioned, Dr. Benjamin stated that he would defer to Mr. Steinman who stated that the main issue rested with the unconfirmed officials currently serving. Chairman Wishnie believed that they should skip the first part of the proposal and moved onto the second part. Mr. Windels noted that assuming the present political climate with the conflicting branches of government, an appointee who is not yet confirmed would not likely leave their current job for a tenuous appointment. Ms. McCue agreed with Mr. Zuckerman's earlier concerns and believed that they couldn't completely omit the first section as it would directly impact the second. A discussion ensued on the topic with the consensus being reached that the first two provisions were irrelevant if they appropriately addressed the other points. Mr. Adin suggested a time limit be placed on the submission of an

appointee, whereby the appointment would become effective once they take their oath of office and a discussion ensued. A motion was made by Mr. Sellier to specify the appropriate language, by adding that no person appointed can act until the letter of appointment has been submitted by the board, seconded by Ms. McAndrews which passed unanimously. Mr. Meissner asked for clarification and the consensus was reached for a ninety day timeframe requiring the Board of Legislators to act once the letter was submitted to the board. Additionally, the consensus was reached that if an individual's appointment was rejected, that person could not be recommended for the same position during the same legislative session. With a motion by Mr. Zuckerman, seconded by Mr. Sellier the resolution was unanimously adopted as amended, although the final wording would be revised by Mr. Menken and Mr. Steinman.

The Commission moved onto the next topic up for debate: Disability of the County Executive. Dr. Benjamin briefly reviewed the proposal and Chairman Wishnie stated that there is no procedure in place for a recall. The problem was theoretically, the County Executive could show up on the first day of his term then not come in until the last day. Dr. Benjamin and Mr. Steinman gave some background on procedures in place at other levels of government. A discussion on who would submit the charges arose and a discussion ensued. Dr. Benjamin stated that the main issue is that disability is not defined by the charter, and if the Commission believed it didn't need to be addressed then it should be left alone, with a discussion ensuing and the consensus of disability being recommended to the legislature, who could then take the appropriate action. Ms. McAndrews cautioned that defining disability may not cover something in the future that they could not have predicted. With a motion by Mr. Zuckerman, seconded by Mr. Meissner the resolution was adopted 13 to 1 with Mr. Windels voting in the negative. Dr. Benjamin then moved onto the next issue of vacancies in legislative office prior to the expiration of the term and keeping partisan continuity. Currently, the provision states that a temporary appointee cannot run for office and is essentially for keeping continuity. The question arose on the appointing authority of whether it would be the political party, the Caucus, or some combination thereof. Mr. Windels stated that party would be best as the individual was running on that line and it was decided they remove "nominee of the party caucus" from the language. Mr. Steinman commented that the nominee would be put forth by the party and the majority of the full board would vote to confirm them. Mr. Thomas asked where the deficiency lies with the present situation. Chairman Wishnie explained that in order to maintain the balance of power a person can't be appointed from the other party but noted that it's possible for the remaining legislators of the party wanting an "office-holder" not a candidate. It was decided that they should go with the original language but add "Legislative" between party and caucus. With a motion by Mr. Zuckerman, seconded by Mr. Windels the proposal was adopted unanimously.

The Commission then moved onto the issue of determining the value of real property for the purpose of taxation. Mr. Zuckerman noted this wasn't the original recommendation by the focus group, but they made this proposal as it narrows the scope and empowers the county. A discussion ensued and Mr. Steinman stated that from the State's perspective it was a good idea as Westchester is viewed as a "nightmare" assessment-wise. Chairman Wishnie asked for any changes to the proposal and Mr. Gatta asked if the language should be more pedestrian. Mr. Sellier asked about the idea of an opt-out clause, noting that they have a good system in place in Pelham and worried about good practices in place being messed up in the transition. Ms. McAndrews stated that they're faced with the problem that a municipality's assessment potentially going down but result in County Taxes being raised because of the equalization rate. Mr. Gatta stated that with one county-wide authority there would be no need for an equalization rate. Chairman Wishnie noted that at the end of the process, anyone on the commission would be able to write a minority opinion which would be attached to the report. Mr. Zuckerman agreed with Mr. Sellier's earlier concerns but believed this would be in the County's best interests. With a motion by Mr. Gatta, seconded by Ms. McAndrews the proposal was adopted unanimously

The next proposal provided for the revision of Ethics section in the Charter. Mr. Menken asked to insert County in front of government in all 4 places. With a motion by Mr. Zuckerman, seconded by Mr. Gatta the proposal passed unanimously. The next proposal called for a comprehensive review and revision of the County Code of Ethics addressing the issues identified along with the proposals for changes submitted by Mark Davies. The question was on if they wanted to specifically name Mark Davies in the recommendation, or rather simply changing it to an expert. Mr. Windels suggested they add a period after undertaken and strike the rest with which Mr. Zuckerman agreed. Ms. Dolgin-Kmetz stated that the County undertook an examination of the ethics code, although it never went anywhere. Mr. Steinman asked for some clarification on Mr. Windels suggestion and with a motion by Mr. Windels, seconded by Mr. Lawrence the proposal was adopted unanimously.

The Commission then addressed the final proposal for the night, on whether the Board of Legislators should have their own Legislative Counsel, independent of the County Attorney. Mr. Gatta and Chairman Wishnie both spoke against the proposal stating that there should only be one County Attorney and that this was an unnecessary expense. Mr. Thomas asked for some clarification on what functions the position served. Ms. Dolgin-Kmetz at this point reiterated that the purpose of the Board having their own counsel was to advise legislators on matters that the County Attorney might not have time or a desire to handle. Chairman Wishnie asked about the Board's current legal team and Ms. Dolgin-Kmetz stated that the Board wished to create a position. At this time various Commission

Members began to question Mr. Crane, on his title and functions served as an employee of the Board. After some discussion, a motion to adopt was put forth by Mr. Sellier, seconded by Mr. Mattis. With a vote of two in favor (Mr. Menken & Ms. McCue) and eleven against, the proposal was defeated.

Chairman Wishnie briefly discussed the upcoming meetings and asked for a motion to adjourn. With a motion by Mr. Mattis, seconded by Mr. Zuckerman, the meeting of the Charter Revision Commission was adjourned at 8:55 PM.

September 21, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order**
- 2. Presentation by Dr. Gerald Benjamin on additional list of resolutions for consideration in Final Report**
- 5. Other Business**
- 6. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

SEPTEMBER 21, 2013

Members in Attendance: Jeff Binder, Alfred Gatta, Herman Geist, Derrickson Lawrence, Steve Mayo, Anne McAndrews, Paul Meissner, David Menken, Jane Morgenstern, Guy Parisi, Bertrand Sellier, Matthew Thomas, Paul Windels, Richard Wishnie

Absent Members: Raymond Belair, Julie Killian, John Mattis, Florence McCue, Vincenza Restiano, Dr. Ronald Volino, Gary Zuckerman

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Robert Persaud, Anand Singh

Commission Counsel: Lester Steinman

Commission Consultant Dr. Gerald Benjamin

Guests Beverley Sved, League of Women Voters

MINUTES

The meeting of the Charter Revision Commission was called to order at 8:45 AM. Chairman Wishnie thanked everyone for coming and briefly discussed the items they would be going over and voting on for the morning.

Dr. Benjamin began with the resolution regarding the timetable for the budget. Mr. Windels referenced the fiscal professionals of the County being in favor of having a budget process as late in the year as possible, so that the data they used was relevant. He continued by recommending that the preliminary budget be released after Election Day, and that certain periods in the process be amended so in the end nine to ten days were added to the time for budget deliberations by the Count Board. A discussion ensued on the merits of releasing a budget released prior to Election Day versus after Election Day. Chairman Wishnie commented on the problems with releasing it prior to Election Day based on testimony they had heard from two prior County Executives. Mr. Gatta stated they should focus on the fiscal year as this would help everything else fall into line, citing testimony they've heard. Mr. Meissner stated the first thing to consider should be a 2 year budget then the fiscal year, then budget release.

Dr. Benjamin moved onto the resolution regarding a proposed biannual budget. Mr.

Meissner stated that the logic behind a two year budget was the ability to do it in a non-election year, thus being asynchronous and tying it into a fiscal year determination. Mr. Parisi asked if it was feasible and Dr. Benjamin stated that the deadline for a biannual budget would tie into the fiscal year with the added benefit of them not needing a transition period. Ms. McAndrews stated that this scenario might not influence politics as much as they think. Mr. Gatta agreed, noting that the adjustment period becomes a budget process unto itself. Chairman Wishnie stated that he didn't believe this process would work nor was it practical. With a motion by Mr. Gatta seconded by Mr. Meissner, the resolution was defeated twelve to one with Mr. Meissner being the sole vote in favor. A question was raised as to whether they had to vote on every resolution and a brief discussion ensued. Chairman Wishnie then used his prerogative as the Chair stating that they would take a vote on every item.

The next resolution discussed was regarding the start of the new fiscal year. A short discussion ensued on the legality of changing the timeline. Mr. Meissner noted that seventy percent of the County Budget came from State 'pass-through' funds and changing the start of the fiscal year to June or July would help prevent the budget process from becoming politicized, and Mr. Windels' earlier proposal could be worked into it. Chairman Wishnie asked how changing the fiscal year would affect municipalities to which Mr. Gatta stated that village budgets are six months later, so they had a handle on revenues since they know what the county has done. For villages, a concurrent fiscal year to the proposal would be simultaneous so there wouldn't be any major impact. Dr. Benjamin stated that there may be some issues on revenue regarding the property tax, and a discussion on the number of tax bills sent out along with the revenue and cost implications from a change ensued. Mr. Sellier believed there would be no impact and Ms. McAndrews briefly discussed the role of towns as county agents. Mr. Parisi suggested moving it to the first of June to further remove it from elections. Procedurally, Mr. Adin stated that they might need a referendum, which Ms. Dolgin-Kmetz agreed. A discussion on whether it would affect the County's ability to collect taxes ensued with the members being split on the proposals usefulness.

The commission went back to discussing the timetable for the Budget. Mr. Meissner questioned whether it might be better to recommend the budget process timeframe being doubled instead of Mr. Windels' earlier recommendation. Mr. Steinman stated that there's likelihood the Board of Legislators would not consider the change in fiscal year recommendation and that the Commission should consider looking at how to improve the existing system. Mr. Meissner believed they should offer a package deal, along with a backup proposal. Mr. Thomas asked about the need to tie up the details of the fiscal year before moving onto the timetable. A lengthy discussion ensued on the specifics of the wording before a consensus was reached that the wording should be changed from 'two

months' to 'three months'. With a motion by Mr. Mayo, seconded by Ms. Morgenstern, the resolution was adopted as amended twelve to one with Mr. Windels being the sole dissenting vote.

Mr. Steinman questioned that, given the existing process, should the budget come out before Election Day or should they consider Mr. Windels proposed timeframe? Mr. Binder stated that the reality of today's political climate was that legislators are in election mode almost year round and that the Commission may be overemphasizing the importance of politics. Ms. McAndrews agreed with Mr. Binder that the budget is in fact a 'political' document. Mr. Parisi's concern was the budget being released just before Election Day, and Mr. Meissner stated the need for a motion to have a debate. With a motion by Mr. Windels, seconded by Mr. Parisi, the Commission began a debate on the budgetary calendar to extend the period of time for budget deliberations after Election Day but before the end of the calendar year. Mr. Binder asked if they were considering this with the assumption that the Board would cast aside the Commission's initial recommendation. A discussion ensued on their options with Dr. Benjamin essentially stating that the budget release was the primary event in County Government. He discussed the pros and cons of releasing the budget before or after elections. A consensus was reached that the budget process should in no way intersect with Election Day. Mr. Binder cautioned against giving the Board too many options as it might portray a lack of unity and Mr. Parisi stated they may be able to include the various proposals via a minority opinion. Chairman Wishnie stated that in his experience, they would need to have an alternative and Dr. Benjamin added that the language of the proposal can help present the issues and focus the need for remediation thereby calling attention to the problem. With a motion to recommend expanding the time for review within the existing time period provided for in the charter by Mr. Windels, seconded by Mr. Parisi, the motion was defeated eleven to two, with Mr. Windels and Mr. Parisi voting in favor, and Mr. Mayo abstaining.

After a short break the Commission reconvened at 10:18 AM. Dr. Benjamin presented the recommendation to exempt the Board from the specified May 1 deadline. Ms. Dolgin-Kmetz stated that this is to clarify a longstanding process that had changed with the current County Executive assuming office in 2010, who stated that it was too late according to the Charter to change Capital Budget submissions. Chairman Wishnie asked what the process was when the Board sought to add items to the Capital Budget, to which Ms. Dolgin-Kmetz stated that generally it went through planning and the other necessary approvals, bonding legislation or Capital Budget Amendments, pointing out that the Board was never exempt from bypassing these, among other, approvals. Chairman Wishnie stated that all departments submit projects by May 1 and that the Board's representative is the Chairman so they stay informed during the process. Ms. Dolgin-

Kmetz pointed out that this Capital Budget goes into the County Executive's proposal and the final determination essentially lies with him. The commission discussed the present political gridlock between the two branches of government along with the pending litigation. Mr. Binder suggested amending the specification as he did not want the proposal to fail. Mr. Steinman suggested that they allow the exemption but remove 'May 1' from the language to make it more general, although they should still reference it in some fashion. Mr. Parisi moved to table this item, seconded by Mr. Windels, and the motion was defeated twelve to two with Mr. Parisi and Mr. Windels voting in the affirmative. Mr. Binder then made a motion to accept the proposal as amended, seconded by Mr. Meissner with nine members in favor, Mr. Parisi Mr. Windels, and Mr. Thomas voting against it, and Chairman Wishnie and Mr. Mayo abstaining from the vote.

Dr. Benjamin presented the next proposal regarding Legislative Access to Budget Information. Chairman Wishnie started by stating that it was virtually impossible to 'legislate' cooperation. Mr. Parisi questioned the merits and saw this as the basis for yet another lawsuit between the branches of government. Mr. Binder stated that the basis of this recommendation is that the legislators need to see the original departmental requests and that this is a reaction to the dysfunction. Mr. Parisi stated that this issue wasn't under the purview of the commission and Mr. Windels added that the requests are all moving in synch. Mr. Crane stated that it was his understanding that the Administration's position was that there was no obligation for the departmental estimates to be included in the Budget and was up to the County Executive. Ms. Dolgin-Kmetz stressed the need for departmental requests in the proposed budget. Chairman Wishnie noted that the proposal was for more access, generally, and it was his belief that the issue with departmental requests was corrected. The other issue tied to this was that legislative staff generally had problems getting cooperation from the Budget Department, but he could not see a way to change the Charter to facilitate cooperation. Mr. Binder argued that this proposal is a product of the Board's Fiscal Team stating that they need more reliable information in order to do their job and that it was the responsibility of the Commission to cut through the dysfunction. Ms. Morgenstern commented on the tone of the language suggesting they remove 'unfettered' which was generally agreed with. Chairman Wishnie and Mr. Geist each gave some anecdotal evidence on what the situation was like when they were in office. With a motion to adopt the resolution as amended by Mr. Binder, seconded by Mr. Sellier, the resolution was adopted eleven to three with Mr. Gatta, Mr. Windels, and Mr. Parisi voting in the negative.

The next proposals presented to the Commission were regarding quarterly reporting requirements by the Budget Department to the Board of Legislators. Mr. Thomas stated

that the words ‘Actual’ and ‘Projected’ be added so as to enhance the language, but otherwise agreed with the merits. Mr. Gatta asked if the County already did this and cautioned against it turning into program performance reports which would use too many resources. It was suggested that they are more like a financial variance report. Mr. Gatta stated that numerous institutions have already done away with the Q₃ Reports and all have eliminated the Q₄ Reports as work on the budget is already in progress. Mr. Thomas stated that this was being done mainly for transparency issues and the public’s benefit, not for internal management. A discussion ensued and with a motion by Mr. Binder seconded by Mr. Sellier the resolution was approved unanimously.

The next proposal would require the County Executive to detail any recommendation for borrowing for pension costs and to specify the reason for borrowing, the costs, and the duration and amount of debt to be incurred. Ms. McAndrews stated that when she needed to do this, it was done by permissive referendum. Mr. Thomas stated that under the Comptroller’s system there is a mechanism in place where borrowing could be done outside of a permissive referendum, set by the state. A discussion ensued and it was again noted that this proposal was for increased transparency and for the public’s benefit, but would in no way limit the current authority. After some discussion on the language a motion to adopt as written was made by Mr. Thomas, seconded by Ms. McAndrews, and was adopted unanimously.

Continuing with the question of borrowing for pension costs, Dr. Benjamin addressed the next proposal that created a provision subjecting any proposed borrowing to pay for pension costs to public referendum. Mr. Parisi questioned the legality of it and the general consensus was that this proposal went too far. With a motion by Mr. Parisi, seconded by Mr. Meissner the Commission voted to unanimously reject the proposal.

The commission next addressed the legislative waiting period for additions and deletions to the proposed budget. Chairman Wishnie explained the problems with the current situation and stated that this would provide for increased discussion between the two caucuses. Mr. Parisi asked how this would work logistically and noted that ways could emerge to circumvent this. Chairman Wishnie reiterated that cooperation wasn’t something that they could facilitate by amending the Charter. Mr. Binder stated that although this might be problematic in the grand scheme of things they’ve voted to make certain budgetary recommendations. A discussion on how best to handle this proposal ensued with commentary regarding the past year’s budget day vote arising. A consensus was reached that after counsel revised the language of other budget related proposals they would be able to suitably revise this as well. With a motion by Mr. Binder, seconded by Mr. Meissner the proposal was unanimously adopted subject to Counsels’ revisions.

Dr. Benjamin moved on stating that they were finished with the budgetary proposals and

were now moving onto non-fiscal issues. The item regarding the intergovernmental liaison that was tabled from the previous meeting was the first discussed. Chairman Wishnie noted that this meshes with last meetings recommendation regarding the Council of Governments. Mr. Thomas stated that the junior staff typically has handled this function. Chairman Wishnie also pointed out that there was a long standing precedent that the County Executive and Board's staff has been under each branch's sole purview. Mr. Thomas asked if they would need to formally install this title as a budget line item. Mr. Windels believed it best that the Council of Governments decide on operational issues in order to avoid stepping on anyone's toes. Mr. Menken voiced his concern that even though they proposed the Council of Governments, it served mainly as a 'straw man' position and stated that this addition will enhance the related resolution. A discussion ensued with the members voicing their opinions regarding the merits of having such a position along with potential issues that could arise. Mr. Steinman stated that this issue could be folded into the next meeting's discussion regarding top level management. Mr. Binder cautioned about this item potentially becoming a lightning rod for the Commission's critics as creating a position that requires more funding. More government in today's political and economic climate could be extremely controversial. Chairman Wishnie used his prerogative as Chair to postpone this item until the next meeting.

The final two proposals presented by Dr. Benjamin were regarding the frequency and duration of future Charter Revision Commissions. Of the two proposals presented, one called for a standing commission while the other called for a periodic convening of the commission. Chairman Wishnie believed that a standing commission would consume too many resources and believed it should be periodic. The general consensus of the Commission was that periodic convening of the Commission every ten years would be ideal. Mr. Parisi asked if the Commission should consider looking at details regarding the commission's made up. Further operational details were discussed until Ms. Morgenstern commented on the current Commissions makeup. She stressed that we shouldn't gloss over the demographic or geographic issues, noting that there were very few minorities or women on the current Commission. Mr. Lawrence stated that political diversity of the group needed to be looked at as well. A lengthy discussion ensued with the final determination that Dr. Benjamin and Mr. Steinman will include language in the commission report that addresses diversity in all aspects. With a motion by Mr. Sellier, seconded by Ms. Morgenstern, the proposal was adopted as amended with thirteen members voting in the affirmative and Mr. Windels voting against it.

With no other issues before them, Mr. Parisi made a motion to adjourn that was seconded by Mr. Thomas. With a unanimous vote, the meeting of the Charter Revision Commission was adjourned at 11:48 AM.

September 24, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order**
- 2. Approval of minutes:**
 - June 20, 2013**
- 3. Presentation by Dr. Gerald Benjamin on final list of resolutions for consideration in Final Report**
- 5. Other Business**
- 6. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

SEPTEMBER 24, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Julie Killian, Derrickson Lawrence, John Mattis, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Matthew Thomas, Paul Windels, Gary Zuckerman

Absent Members: Raymond Belair, Dr. Ronald Volino, Bertrand Sellier, Herman Geist

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Anand Singh, Robert Persaud

Commission Counsel: Lester Steinman

Commission Consultant Dr. Gerald Benjamin

Guests Betsy Weiner & Janet Zagoria – League of Women Voters

MINUTES

The meeting of the Charter Revision Commission was called to order at 6:11 PM. Chairman Wishnie thanked the commission members for coming and briefly went over the agenda for the evening.

The Commission went over the minutes from the June 20, 2013 meeting and Mr. Windels asked to amend the minutes to reflect that he inquired of Mr. Davies to see if he was qualified to address the issue of preventing corruption through an ethics code, which Mr. Davies did not feel comfortable addressing at that time. With a motion by Mr. Meissner, seconded by Mr. Mayo the minutes were unanimously adopted as amended.

The first resolution discussed that evening was regarding the adoption of a Council Manager System. Mr. Gatta stated that after the decades operating under the current system, this issue will finally get some much needed attention. This major change would alter the administration of County Government, noting that in his experience he couldn't manage his responsibilities while engaging in politics at the same time. The most effective administration occurs when there is a clear separation of politics and the community, by trusting the elected officials to do the right things with the manager following suit, in a business-like fashion resulting in the most cost effective practices for

real accountability. This leaves time for officials to concentrate on policy while the administration concentrates to deliver efficient services in a professional manner.

Mr. Zuckerman stated that the other part of the resolution deals with the eliminations of the position of the County Executive. While it would be unique to this level of government, it is the predominant form practiced not only in Westchester cities, but all across the country. Primarily, it eliminates the partisan gridlock that has plagued our government. Instead of the Commission's report being buried, there will be a headline addressing what they have done, noting that it was their job to figure out what's best for the County. Mr. Menken stated that it's currently engendered by political gridlock to which Mr. Zuckerman stated that it wouldn't have to be. If there was good faith in the proposed system, then even the present differences wouldn't affect it. This was the best system that they came up with from their discussions. Mr. Mayo gave his experience under both the manager and mayoral forms of city government. He stated that in New Rochelle, they hadn't encountered all of the issues that were raised in the proposal. He went on to state that it was general knowledge of some of their problems, such as a lack of bipartisanship as well as economic issues. Notably there was a lack of dynamism. If the manager was competent he would like to keep this non-partisan, however there will always be a certain gridlock in place, which might simply be from the nature of the party system. With one party in power in the legislative branch there remains a lack of dynamism

Mr. Thomas stated that there has been a lot of thought put into this and that he struggled since Westchester County is different. In a demographic report, one hundred forty-seven of the most populated counties account for 50% of the US population. Westchester is one of the one-hundred forty seven [counties], and thus, is unique unto itself. He believed that there is the value between the executive and legislative branch. Mr. Windels voiced his concern that the race for County Executive was the one place where the public at large could participate in steering the direction of the government and taking this away from the voters would significantly reduce their voice in government. He noted that the Steering Committee had declined to offer his resolution for reform in the Board of Legislators for consideration by the full Commission. For the Commission only to vote on reducing or eliminating the powers of the County Executive would therefore expose the Commission's work to two risks: potentially creating greater government dysfunction through the abuse of the powers of leadership in the Board of Legislators and that of creating the appearance, if not the actuality, that it had acted based on partisan political motives. Ms. Killian agreed with Mr. Windels and couldn't see how changing the form of government would eliminate political gridlock, stating that personalities might change but the government would remain. Ms. Morgenstern agreed with Mr. Windels and Mr. Thomas and asked if the Chairman of the Board would be elected on a County-Wide

basis, to which Mr. Gatta responded in the affirmative. The Chairman would have veto power of legislation and noted that it was a fairly complex form of government. That was a drawback to this form of government as people generally don't understand it, noting that there are over six thousand entities that operate under the council-manager system. Ms. Morgenstern gave her experience as an elected official serving in such a system but noted it may not be comparable. Dr. Benjamin then discussed the various ways of electing an officer in the proposed system. Mr. Binder stated that the issue boils down to whether you believe that politics have infected the delivery of services. He cited the number of services that the County currently delivered stating that the County may have reached a point where they can contemplate politics with the delivery of services. They wanted services delivery without the prism of politics. Mr. Menken stated that he would rather see a trained manager in place. Chairman Wishnie then discussed the benefits of the system in place, that still manage to deliver services efficiently and at this point in time he was not prepared to approve this resolution.

He then suggested they move onto the alternative proposal of utilizing a Chief Operating Officer. Dr. Benjamin explained the proposal and Mr. Menken asked what the County Executive would do. Mr. Binder raised his concern that they needed more discussion on such an important issue. He asked that if such a system worked for the towns then why it couldn't work for the County. Mr. Steinman stated that most town governments in Westchester County operate under a supervisor and do not employ full-time managers or administrators. Mr. Binder asked if there was an improvement in the delivery of services. Mr. Gatta stated that the adoption of performance objectives should be looked at if they're concerned about finances. If things weren't budgeted well then it would raise concerns. The manager would stay removed from politics and handle things in a business-like fashion. Dr. Benjamin discussed questions that were likely to arise with such a system. Chairman Wishnie asked for him to speak about New York State, with Dr. Benjamin noting that manager systems were much more prevalent in cities. Ms. Morgenstern noted that while mayors served as part of the legislative bodies of villages, this was not true regarding the County Executive here in Westchester. She was unsure about towns that used the manager system. Dr. Benjamin stated that all these boards are legislatures and the responsibility of policy making lies with them.

Mr. Lawrence stated that looking at this objectively, if Mr. Gatta believed that it could improve performance and delivery of services, then it's an opportunity that's worth their consideration. Mr. Zuckerman stated that they need to concentrate first on whether or not there should be a manager, regardless of whether or not they change the form of government. Mr. Mayo agreed with this and gave an example where there is not management by objectives, with the majority backing the manager leaving the minority powerless. A discussion ensued on the functions and operations of the manager, with the

consensus being reached that it was good for generating ideas, although it might not work with partisan gridlock that was present. Chairman Wishnie asked for a motion on the adoption of a Council-Manager System, which was made by Mr. Gatta and seconded by Mr. Zuckerman. With a vote of seven in favor and seven against, the motion was defeated. Chairman Wishnie stated that there would be an opportunity for a minority report. The Commission then took a brief recess at 7:21 PM.

The Commission reconvened at 7:31 PM, with Chairman Wishnie raising the next item of creating a position to serve as the Chief Operating Officer for Westchester County. Mr. Meissner asked how this related to the proposal regarding the intergovernmental liaison and Mr. Windels asked what the difference between this and having a Deputy County Executive. Chairman Wishnie stated that the Deputy County Executive receives his or her responsibilities from the County Executive, and that in this case the County Executive would appoint someone, but their duties would stem from the Charter. Mr. Gatta believed that they need to sort out policy where the Board of Legislators (Board) tells the administrator what to do. Mr. Windels stated that the County Executive wasn't going to appoint someone to be a factotum of the Board and they are in essence creating an adversarial position. Chairman Wishnie noted that it wouldn't be different for what exists today but would enhance the position. A discussion ensued on the merits of having such a position as well as what their specific responsibilities would be. Mr. Gatta pointed out that the main difference with the system today is that the position would be appointed, with the qualifications vetted by and approval resting with the Board. Chairman Wishnie asked for a motion to adopt the resolution. With a motion by Mr. Mayo, seconded by Mr. Zuckerman, the motion was defeated seven to seven.

Dr. Benjamin then moved onto the next slide regarding Initiative and Referendum, which would provide for a local law that allowed citizens to initiate and adopt legislation or charter amendments through referendum. Ms. Killian asked for more details about the initiative process which was provided. Mr. Gatta stated that he was against this resolution as they already had elected officials, and didn't see the need for this, a notion with which Ms. McAndrews agreed. Dr. Benjamin discussed the pros and cons of the proposals. Mr. Steinman noted that a simple majority could repeal local laws adopted through the initiative and referendum process. Mr. Windels, playing devil's advocate, spoke from the opposing point of view in favor of this, but in the end said there were too many potential problems that would prevent him from supporting the proposals. Mr. Binder stated that he believed this resolution was not something to be afraid of and that he had no problem leaving the issues up to the people and Mr. Mayo stated that it was important to meet the concerns of everyone. Dr. Benjamin stated that the issue arose when the numerous special interests that were present in the County emerged and could possibly abuse the system. After some discussion Chairman Wishnie asked for a motion on the item. With a

motion by Ms. McCue, seconded by Mr. Mayo, the resolution was defeated with eleven voting in the negative and three (Mr. Mayo, Mr. Meissner, & Mr. Binder) in the affirmative.

The next item, creation of the position of, Intergovernmental Liaison, discussed at the previous meeting, was briefly further discussed... Chairman Wishnie asked for a motion on the resolution. With a motion by Mr. Meissner, seconded by Mr. Thomas the resolution was unanimously defeated.

The final proposal discussed was regarding the Playland Commission, which was tabled from the September 12 meeting. Ms. McCue stated that after some consideration the Focus Group has decided to withdraw this proposal and made a motion to accept the withdrawal recommendation of the focus group. With a second by Mr. Thomas, the commission unanimously adopted the recommendation to withdraw the proposal.

That concluded the evening's discussion on proposals. Mr. Windels suggested that drafts be distributed electronically for the next meeting. Chairman Wishnie stated that if people want to do a minority report it should be done between now and the next meeting. Dr. Benjamin thanked the Commission members for their comments on the Action Items. With a motion by Mr. Windels, seconded by Mr. Zuckerman, the meeting of the Charter Revision Commission was adjourned at 8:07 PM.

CHARTER REVISION COMMISSION

October 24, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order**
- 2. Approval of minutes:**
 - **September 12, 2013**
 - **September 21, 2013**
 - **September 24, 2013**
- 3. Consideration of three additional resolutions for Final Report**
- 4. Presentation of the initial draft of the Final Report**
- 5. Other Business**
- 6. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

October 24, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Derrickson Lawrence, John Mattis, Steve Mayo, Jane Morgenstern, Guy Parisi, Vincenza Restiano, Matthew Thomas, Paul Windels III, Gary Zuckerman, Dr. Ronald Volino, Herman Geist

Absent Members: Raymond Belair, Julie Killian, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Bertrand Sellier

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Anand Singh

Commission Counsel: Lester Steinman

Commission Consultant Dr. Gerald Benjamin

MINUTES

The meeting of the Charter Revision Commission was called to order at 6:12 PM. Chairman Wishnie thanked the commission members for coming and briefly went over the agenda for the evening.

Chairman Wishnie indicated they would begin by discussing the additional suggested resolutions from Dr. Benjamin. Dr Benjamin opened with the resolution regarding the estimated operating costs of pending and proposed capital projects. He summarized the resolution and outlined a supporting rationale for consideration by the Commission. Chairman Wishnie added that this essentially called for the annual operating costs of current and proposed capital projects to be factored in by the Capital Projects subcommittee. He also referenced the concerns of the Board of Legislators' (Board) fiscal staff that inflation wasn't currently addressed in addition to current inconsistencies with different fiscal projections being done by different agencies. Mr. Gatta believed the differences in cost would be negligible and didn't believe this needed to be included. Mr. Zuckerman believed it was a good idea, but hadn't been vetted enough by the Focus Groups, with too many unknowns to make an informed decision. Mr. Parisi asked if this would also be subject to the potential issues that arose when estimating sales tax, such as initial low estimates to entice a project's onset but then leaving them in a potentially unfavorable situation later on. Chairman Wishnie asked for a motion to include this proposal in the final report, but no one made such a motion.

Dr. Benjamin then moved onto the next proposed resolution that called for resilience and sustainability of capital projects to be looked at during the initial planning for Capital Projects, giving his reasons why he believed such issue should be considered. He presented information on the additional criteria to be factored in by the County Planning Department before moving on a capital project, along with criteria used by several other counties. He cited a study by the Mid Hudson Regional Sustainability Plan that projected the possibility of increased water levels and subsequent flooding that could see parts of Westchester under water by the year 2080. He also showed a list of facilities in Westchester that could be affected. Chairman Wishnie voiced his support for the resolution and Mr. Gatta asked whether the term ‘priority’ warranted inclusion. Dr. Benjamin expressed his belief why it should and stated that people needed to be aware this should become a value, among others, that people need to consider. Mr. Thomas asked if it would become redundant since most capital projects covered by SEQRA. Mr. Steinman cited the section of the charter in question, and stated that the terms resilience and sustainability could simply be added to the existing language. Mr. Windels voiced his concerns with the issue and after some discussion a consensus was reached. With a motion by Mr. Mayo, seconded by Ms. Morgenstern, the resolution was adopted as amended to add the terms ‘resilience’ and ‘sustainability’ to the existing list by a margin of thirteen to one with Mr. Windels voting in the negative

Dr. Benjamin moved onto the final proposed resolution regarding a sunset provision for new and existing projects in the five year capital plan. Chairman Wishnie voiced his, along with Mr. Binder’s opinion that this wasn’t in the best interests of the County, stating that it could cause a worthy project to be cancelled simply because it wasn’t a priority for those years. Mr. Gatta stated that as a manager he believed this made sense, although as an elected official he liked being able to have a ‘wish list’ of projects that he could convey to constituents were still underway in some fashion. Mr. Mayo asked for an example of how this would change things, to which Dr. Benjamin stated that if there was a project that is slowly put further and further on the backburner with no realistic completion date, it would eliminate it, along with the potential for the project to be politicized. Mr. Zuckerman asked what the downside of keeping a project on the list was along with the provision of needing a formal action to keep it on the capital plan. Chairman Wishnie asked for the staff’s opinion regarding the current practices and Mr. Crane stated that he had noticed some projects being removed over the years and Mr. Adin stated that if a project hadn’t reached the secondary phase or later and wasn’t funded for a number of years then it could be removed. Mr. Geist asked about changing the language to amend it to end of fiscal year versus end of calendar year to which Chairman Wishnie asked for the Commission to take action on this item. With little interest in this proposal, no such motion was made.

Chairman Wishnie then asked that they move to the approval of the minutes. The commission members reviewed the minutes and two amendments to the minutes from the September 24, 2013 meeting by Mr. Thomas and Mr. Windels were noted and recorded. With a motion by Mr. Mayo, seconded by Mr. Zuckerman, the minutes were unanimously adopted as amended

Chairman Wishnie thanked the Commission members and the Board's staff for all of their help over the past two years and in putting together the final report. He stated that the cutoff for comments and a minority report for inclusion in the final report would be by next week on October 30, 2013. A discussion on the formatting of the report ensued along with potential areas where the report could be improved or altered to better convey the ideas of the commission. A question was raised by Mr. Windels regarding the inclusion of discussion of the state law considerations and need to amend state law regarding countywide assessment. Mr. Steinman responded that the bill Mr. Windels referenced, vetoed By Governor Pataki, and was not the same as the legislation that is the subject of the resolution that was voted on by the Commission. Mr. Windels agreed but felt that it should be set out more clearly so as to give a very clear frame of reference. Mr. Gatta didn't want the resolution to be confused or associated with re-evaluation. A discussion ensued on constitutional home rule along with other issues that would arise from Mr. Gatta's concerns Chairman Wishnie asked Mr. Windels to email his comments, and asked if anyone else had comments.

Chairman Wishnie reviewed the future plans for the Commission regarding the planned public hearing, along with a press release to raise awareness about it. Based on the comments they receive at the Public Hearing a Steering Committee meeting may be held to iron out the details of the Final Report. He went over how the final report would be approved by members before the December 15, 2013 deadline along with how a minority report would be included. Mr. Windels expressed his concern that he needed adequate time to review the report, which had only just been circulated in order to decide whether to issue a minority report. Chairman Wishnie respectfully requested that Mr. Windels write and submit his report as soon as possible. In response to Ms. Morgenstern's question, the next meeting could be a meeting of the Steering Committee; otherwise the next full gathering of the Commission would be at the public hearing on November 20, 2013. Dr. Benjamin stated he would prepare the required materials for presentation. With no other issues before them and with a motion by Mr. Thomas, seconded by Mr. Mayo the meeting of the Charter Revision Commission was adjourned at 7:00 PM.

November 20, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order**
- 2. Approval of minutes:**
 - October 24, 2013**
- 3. Public Forum Comments on Draft Final Report**
- 4. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

November 20, 2013

Members in Attendance: Richard Wishnie, Jeff Binder, Alfred Gatta, Herman Geist, Derrickson Lawrence, Steve Mayo, Anne McAndrews, Florence McCue, Paul Meissner, David Menken, Jane Morgenstern, Bertrand Sellier, Matthew Thomas, Dr. Ronald Volino, Paul Windels III, Gary Zuckerman,

Absent Members: Raymond Belair, Julie Killian, John Mattis, Guy Parisi, Vincenza Restiano

County Staff in Attendance: Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Anand Singh, Matthew Richter

Commission Counsel: Lester Steinman

Commission Consultant Dr. Gerald Benjamin

Legislators in Attendance: Michael Smith (D3), Michael Kaplowitz (D4), Sheila Marcotte (D10)

Guests in Attendance: Edye McCarthy, Beverley Sved, Janet Zagoria, Patrick McEvily, Nanette Albanese, Denise Khaner, Karen Schatzel

MINUTES

The meeting of the Charter Revision Commission was called to order at 7:09 PM. Chairman Wishnie thanked the commission members and guests for coming to the meeting and following Public Forum. He briefly gave some background on the Charter Revision Commission and its mission before moving onto discussing the agenda for the evening.

Chairman Wishnie indicated they would begin by reviewing the minutes from the prior meeting on October 24, 2013. Mr. Windels asked that a change be made to his comments regarding the short time frame for reviewing the draft report and how it impacted his decision over whether or not to write a minority report. The changes were noted and after a motion by Gary Zuckerman, seconded by Steve Mayo, the minutes were unanimously adopted as amended.

Chairman Wishnie then called to order the Public Forum and introduced the first speaker, Edye McCarthy, representing the Westchester County Chapter of the NYS Assessors' Association. Ms. McCarthy read into the record a letter from Mark Heinbockel, President of the Westchester County Chapter of the New York State Assessors' Association in opposition to the Commission's recommendation to establish a County Department of Assessment. The letter is attached to these minutes. Chairman Wishnie thanked her for her comments.

Chairman Wishnie then called the second speaker, Beverley Sved, representing the League of Women Voters of Westchester County Ms. Sved expressed the League's support for the Commission's recommendations to consolidate assessment functions to the County level, to improve the budget process and to appoint rather than elect the County Clerk.. A record of her comments is attached to these minutes. Chairman Wishnie thanked her for her comments.

As there were no other speakers signed up to give comment, Chairman Wishnie asked if anyone in the audience wished to make any comments before they closed. Legislator Michael Kaplowitz (D4), briefly thanked the Commission members for their dedication and hard work over the past two years on behalf of the Board of Legislators and stated that he looked forward to reviewing the proposals with his colleagues. Legislator Sheila Marcotte (D10) spoke next and followed up on Legislator Kaplowitz's comments, also thanking the Commission for its work, especially for their proposal to establish a minimum period for consideration of budget additions and deletions prior to a final vote.

With no other speakers Chairman Wishnie, thanked the speakers for their comments and for everyone coming and expressing interest in the Commission's work. Chairman Wishnie asked that all of the commission members stay for a few minutes after they adjourned. With no other business before them, Chairman Wishnie asked for a motion to adjourn. With a motion by Gary Zuckerman, seconded by Steve Mayo the meeting and Public Forum of the Charter Revision Commission were adjourned at 7:33 PM.

WESTCHESTER COUNTY CHAPTER
OF THE NEW YORK STATE ASSESSORS' ASSOCIATION

Mark Heinbockel, Town/Village of Harrison
2013 President

November 20, 2013

Westchester County Charter Revision Commission
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, NY 10601

Dear Members of the Commission:

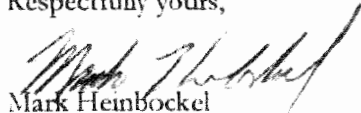
We have read with great interest the November 13, 2013 Draft Determinations of the County's Charter Revision Commission, specifically their approval of a resolution that recommends the establishment a County Department of Assessment. We applaud the efforts of the Commission, as well as those of the County in recognizing the enormity of the issues and challenges.

We, however, oppose the conclusions arrived at by the Commission, which failed to consider less extreme, more viable alternatives, such as those established in the Westchester County Collaborative Assessment Study of March 4, 2011. The detailed recommendations of this study, which took over two years to compile, appear to have been dismissed out of hand. In addition, the unintended consequence of the determinations of the Charter Revision Commission may serve to undermine the growing momentum and the efforts now underway by the 15 municipalities that have undergone, or are in the initial stages of reassessment, not to mention those that may also consider it.

The determination to establish a County Department of Assessment, in essence, shifts the burden, without solving the underlying problems. The report offers a concept, without a framework and is not data driven. The fact that only 2 of the 62 counties in New York State have chosen to perform the assessment function on the county level, is evidence of the fact that there are inherent problems with such a highly centralized approach.

For all of the reasons cited above, it is our professional opinion that the determination of the Commission to establish a County Department of Assessment is the big government solution to what is and should remain a local government function.

Respectfully yours,



Mark Heinbockel
Harrison Town/Village Assessor
2013 President, WCCNYSAA

My name is Beverley Sved. I am here to represent the League of Women Voters of Westchester.

I and several of my fellow League members have attended many of your meetings. We have been very impressed with how your Commission organized itself; how the Chair presided over meetings that were focused and, at the same time, let all voices be heard; and most importantly we found that this important work was addressed in a non-partisan manner.

Based on the League's past study, we would like to comment on three of the Commission's recommendations:

- Improve the budget process
- Consolidate assessment functions to the County level
- Appoint, rather than elect, the County Clerk

Budget Process

The LWVW has, for many years, examined the proposed County Budget. Each year we have recommended an earlier release of the budget to provide for a more orderly review by the Board of Legislators and by the public. The current process results in a compressed month to six weeks of effort during a time when secular and religious holidays shorten the actual time available.

The Charter Revision Commission proposes a series of solutions that we support.

1. Change the County's fiscal year so that it begins on July 1 and ends on June 30. This would avoid a crunch at the end of the calendar year and would be more in line with New York State's fiscal year, thus allowing for more accurate estimates of State aid to be incorporated into the county budget.
2. Establish a minimum 75-day period for budget review by the Board of Legislators, the public, and adoption by the BOL.
3. Establish a minimum period for consideration of budget additions and deletions prior to a final vote.

4. Provide the Board of Legislators estimates of revenues and expenditures along with supporting data that each department submits to the Budget Director.

Two additional recommendations would increase public understanding of the budget and of its future consequences; the LWVW supports them.

1. Submission to the Board of Legislators of quarterly financial reports and publication of these reports for public consumption. Such reports currently are made so that the BOL can exercise its oversight responsibilities; the public should have equal access.

2. Public notice of borrowing to cover pension costs. This notice should be made in the County Executive's budget message and should be detailed as to amount and duration.

County Reassessment Board

In a November 2009 report we stated that centralizing assessment would increase government efficiency and might lower costs. We closely followed the work of the Westchester Collaborative Assessment Commission, which promoted uniform data collecting methods and generally took a countywide approach to the issue. In 2012, we conducted a survey of Westchester municipalities to determine where they are on reassessment. And on March 20, 2013, we sponsored a panel discussion on reassessment at which the panelists generally agreed to a countywide approach.

On the basis of all of this, the LWVW supports the Charter Revision Commission's recommendation that a County Reassessment Board be formed.

Appointment of the County Clerk

We understand that some posts require professional qualifications. In line with this, the League of Women Voters of New York State in its consolidation guidelines of November 2009 called for making the position of County Clerk appointive rather than elective. We also note that at a recent LWVW candidates meeting, both aspirants to the position supported such a move. Accordingly, the League of Women Voters of Westchester supports this recommendation.

Thank you for your hard work to make our County government more efficient and effective to the betterment of all Westchester County residents.

December 5, 2013

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Cortland

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

GARY J. ZUCKERMAN
Rye Brook

AGENDA

- 1. Call to Order**
- 2. Approval of minutes:**
 - November 20, 2013**
- 3. Voting to Approve Final Report**
- 4. Adjournment**

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
MINUTES**

December 5, 2013

Members in Attendance:	Jeff Binder, Richard Wishnie, Alfred Gatta, Julie Killian, Derickson Lawrence, John Mattis, Anne McAndrews, Paul Meissner, David Menken, Jane Morgenstern, Bertrand Sellier, Matthew Thomas, Paul Windels, Gary Zuckerman, Dr. Ronald Volino, Steve Mayo
Absent Members	Florence McCue, Guy Parisi, Vincenza Restiano, Raymond Belair, Herman Geist
County Staff in Attendance:	Justin Adin, Chris Crane, Stacey Dolgin-Kmetz, Anand Singh
Commission Counsel:	Lester Steinman
Commission Consultant	Dr. Gerald Benjamin

MINUTES

The meeting of the Westchester County Charter Revision Commission was called to order at 5:52. Chairman Wishnie thanked the commission members for coming and briefly went over the agenda for the evening.

He began by asking the members to review the minutes from the November 20, 2013 meeting for their approval. With a motion by Mr. Zuckerman, seconded by Dr. Volino the minutes were adopted unanimously.

Chairman Wishnie moved onto the final item of the evening for the vote to approve the Final Report asked for a motion. With a motion by Mr. Zuckerman, seconded by Anne McAndrews the Final Report of the Westchester County Charter Revision Commission was approved unanimously.

Mr. Binder asked about the six-month period for advisement to the Board of Legislators to which Chairman Wishnie noted that in discussions with the legislators it was the intent that a task-force be established to handle the Commission's recommendations and thanked everyone for their work.

Mr. Windels spoke next, thanking everyone for their efforts over the past eighteen months in achieving their goal in bi-partisan manner. Mr. Steinman briefly spoke about his presentation at the League of Women Voters conference he and Mr. Zuckerman attended and conveyed the support and positive feedback he received along with words of thanks to the other members and staff. Ms. McAndrews then addressed the Commission and thanked everyone for their work.

It was the general consensus that each member would continue advocating the recommendations of the Final Report in their respective municipalities. Dr. Benjamin gave his final thoughts and noted that this Commission met or exceeded the efforts of the previous commission he advised. Chairman Wishnie gave a few final thoughts and words of thanks to the Commission members and staff for their hard work and dedication during their time together. Ms. Killian also gave thanks and recommended creating a brief synopsis of the Commission's recommendations for the general public

Chairman Wishnie then asked for a motion to approve the minutes from tonight's meeting and with a motion by Mr. Mattis, seconded by Mr. Binder the minutes were unanimously adopted.

With a motion by Mr. Windels, seconded by Mr. Zuckerman the meeting of the Westchester County Charter Revision Commission was adjourned at 7:00 PM.

Budget and Finance Focus Group Report

**Westchester Charter Revision Commission
Budget and Finance Focus Group
January, 2013 – Interim Report**

Members:

Jeffrey M. Binder, Esq. – Chair
Paul Meissner – Vice Chair
Paul Windels III, Esq. – Secretary
Matt Thomas
Julie Killian
Derickson Lawrence
Anne McAndrews
John Mattis
Herman Geist

Meeting Dates and Persons Interviewed¹

Date:	Person(s) interviewed:
11/3/2011	Stacey Dolgin-Kmetz – Special Counsel to Charter Revision Commission
11/10/2011	Olivia Rhodes – Director of Fiscal Affairs, Westchester County Board of Legislators; Ann Reasoner, Deputy Director for Fiscal Affairs, Westchester County Board of Legislators (Individual meeting with Chair of Committee)
11/14/2011	No Persons Interviewed
11/28/2011	Paul J. Noto, Esq. – Former Majority and Minority Leader, Westchester County Board of Legislators
12/09/2011	Stephen P. Tenore – Former Chairman of the Westchester County Board of Legislators
1/13/2012	Mark Tulis, Esq. – Former Member, Westchester County Board of Legislators, Former Town Supervisor, New Castle, Chairman – Westchester Medical Center Board of Directors
2/8/2012	No Persons Interviewed
3/14/2012	Olivia Rhodes, Director of Fiscal Affairs, Westchester County Board of Legislators, Ann Reasoner, Deputy Director for Fiscal Affairs, Westchester County Board of Legislators, Martin Rogowsky – Former Member, Budget Chairman, Westchester County Board of Legislators
4/30/2012	No persons Interviewed

¹ Our examination of the budget process focused on the budget process as practiced in the last twenty to thirty years, including the budgets enacted in 2010 and 2011 for the 2011 and 2012 fiscal years. Time constraints did not, however, permit us to include the circumstances under which the 2013 budget was passed in 2012, and especially the opinions of the different participants in that process as to whether and the extent to which the process itself worked or whether that process identified changes that need to be made. We suggest that the Commission invite the key participants to offer greater insight into the 2013 budget implementation and any possible Charter revisions based on that experience.

6/7/2012	Citizens Budget Advisory Committee – Justin Brasch, Esq.; Arthur Vietro; Fran Piskorowski, Dave Cabibbo, Bill Kay, John McGarr
6/21/2012	Larry Soule – Westchester County Budget Director
11/1/2012	Sheila Marcotte – Westchester County Legislator

Introduction:

The Budget and Finance Focus Group (hereinafter, the “Group”) sought to identify ways in which reforming the Westchester County Charter could improve the budget-adopting process. Of particular interest to the group were issues that either arose from the language or application of the charter or issues that charter change could possibly address. The guiding principles which informed the group’s research included the following: what impedes (or could impede) the County from enacting a budget with greater public participation, increased transparency, and more thorough legislative oversight while simultaneously providing for Executive operational flexibility. From the testimony of the individuals interviewed several themes emerged consistently and were deemed by the Group to be issues which ought to be more thoroughly vetted by the Commission as a whole along with professional staff -- these include:

Recommended Issues For Further Discussion:

Issue 1: Is the budget approval time frame too compressed?

Potentially changing the fiscal year to more closely coincide with the New York State fiscal year became a recurring issue discussed among multiple guests who appeared before the committee.

Issue Overview:

- a. *Charter Section 167.01* specifies that the fiscal year of the County shall begin on the first day of January and shall end on the last day of December.

Possible Recommendation: commence the Fiscal Year on July 1

- i. Pro:
 1. A July 1 fiscal year may allow for better budgeting as the levels of federal and state aid and holiday tax proceeds coming to the County would be more readily discernible.
 2. At present, the New York State budget must be passed by April 1 which, if on time, would give the County, almost three months to consider its impact (vis-a vis revenue and mandated spending).
 3. A July 1 fiscal year could also allow for a longer period of time for the executive and legislative branches of County government to deliberate on the overall County budget.
- ii. Con:
 1. Changing the fiscal year will require a substantial amount of temporary disruption in the County's fiscal process.

Key discussion from witnesses: while not averse to changing the fiscal year in concept, budget professionals from both the executive and legislative branches have noted that there are certain advantages to the budget-adopting process in terms of being able to work on the budget for the following year with the most recent (and reliable) data available from the current fiscal year. They observed that a longer budgetary adoption time frame might waste time in terms of unnecessarily having to narrow and define issues that are already defined and/or narrowed under the current process.

2. Issue 2: Should the timing of the release of the County budget and its subsequent review by the Board of Legislators be changed so that there is a longer review period?

- a. *Charter Section 167.61* specifies that not later than the fifteenth day of November of each year, the County Executive shall submit to the County Board a proposed budget for the ensuing fiscal year for current and capital purposes...
- b. *Charter Section 167.81* specifies that by the first Monday in December, the Committee on Budget and Appropriations may file with the County Board a memorandum of any proposed changes
- c. *Charter Section 167.91* specifies that a public hearing on the proposed changes be held by the third Monday in December.
- d. *Charter Section 167.101* specifies that the County Board may revise the items contained in the Committee on Budget and Appropriations memorandum of proposed changes so long as it does not increase the amounts specified in that memorandum. The County Board has to publish its intended changes and cannot act on them until at least five days have passed from their publication. Once those five days have passed, the County Board holds another public hearing – such hearing is for proposed increases above the Committee on Budget and Appropriation’s memorandum. In the event that the Board then presents the County Executive with a budget containing additional or increased items, the County Executive has 5 days to veto such additional or increased items.
 - i. At present the County budget is an approximately \$1.3 billion budget. The total potential time for review and adoption under the current Charter time-frame is a maximum six and one-half week period from November 15 through December 31. Subtracting the holiday periods – Thanksgiving and Christmas – from this time frame effectively leaves an approximately five week window in which to adopt the budget.
 - ii. A possible time frame might follow the following [] week schedule:
 1. [] – release of County Executive proposed budget
 2. [] – public comment period for CE budget

3. [] – Board budget hearings
4. [] – Deadline for Board to release changes to CE proposed budget (additions and deletions)
5. [] – public hearing(s) on Board changes
6. [] – Board to adopt budget
7. [] – CE to sign or veto
8. [] – Board Override if necessary
9. July 1 – Fiscal year begins

iii. **Pro:** A longer time frame for review could result in more meaningful and thorough legislative oversight, greater public participation and more transparency.

- a. A Spring/Summer budget adoption schedule would allow for ample time for the County's part-time legislators along with the Board's limited staff and consultants to have meaningful input into one of the most vital functions of the Board of Legislators.
- b. This time-frame would also be far enough removed from the odd-year election cycle (approximately 12 weeks) such that budgetary partisan politics related to any impending County election might be minimized – or at least be far enough away from the actual election so as to minimize its impact on the vote one way or another.

iv. **Con:** Changing the fiscal year will require a substantial amount of temporary disruption in the County's fiscal process.

3. **Issue 3:** *Should the Charter be clarified to ensure that the Board of Legislators has access to departmental funding requests?*

- a. Section 167.21 states in pertinent part that no later than September 10, the head of each department shall furnish to the Budget Director, on forms supplied by the budget director, estimates of revenue and expenditures for their departments along with supporting data.
 - i. Past practice has been to allow the Board of Legislators access to original funding requests from each department so that the Board can gain insight into what professionals in each department need to perform their respective functions. The Charter should codify this practice in a way that assures unfettered access to this information by the Board as part of its oversight responsibilities.

Key Discussion/Background Information: Approximately halfway through 2012, the Chairperson of the Board of Legislators Budget & Appropriations Committee was

refused access to original funding requests from each department for the 2012 County budget.²

As a result, a difference of opinion arose between the Chairperson and the Budget Department. The Chairperson interpreted the Charter as requiring departments to report their original budget requests as distinct from the amounts contained in the proposed budget, including what the professionals in each department felt was the dollar amount needed to perform its functions. The Budget Department viewed the Charter as having been complied with in that the departments ought not make formal budget requests before gaining an understanding of the budget parameters under which they would be operating in the upcoming fiscal year.

The Commission may want to consider adding to this request something similar to what is required in §167.71 – “Budget Message” by which the Budget Director describes the methodology of how both revenue and costs were projected. The intent of any Charter changes should aim at encouraging the Budget Director to act as an “educator” on how the numbers were arrived. The same principle would apply to any changes in revenues and/or costs of projects with the intention being to create an “apples vs. apples” comparison between how the County Executive calculated the costs/revenue projections contained in his budget and the costs/revenue projections in any Board changes.

4. *Issue 4: Would a two-year budget cycle improve the County’s fiscal health?*

- a. Pro:
 - i. Could occur during non-election years
 - ii. Could smooth out spending,
 - iii. Make it more predictable for bond rating agencies
- b. Con:
 - i. Would require revision of oversight process
 - ii. Would need to have an explicit process for adapting budget to changed circumstances

5. *Issue 5: Should the language of the Charter be clarified vis-à-vis the status of the Board of Legislators as it relates to its participation in capital project initiatives?*

- a. *Section 167.21* specifies that by May 1 the head of each department, institution, office and agency of the County government shall furnish to the Budget Director, the County Planning Board and the Capital Projects Committee detailed estimates of any capital projects which the head of such department, institution, office or agency believes should be undertaken within the next five fiscal years.
 - i. Recommendation: This language should be amended to clarify that for capital projects purposes, the Board of Legislators does not have to adhere to this timeline.

I. Pro:

² See article on issue in LoHud.Com, July 1, 2012.

- a. Would result in the Board's capital priorities being included in the printed budget for the fiscal year at issue.
 - b. Nothing would change in terms of the capital review process by the County's Capital Projects Committee and County Planning Board.
- 2. Con:
 - a. A realistic capital budget should only include capital projects that have been approved by the Capital Projects Committee and the County Planning Board. The approval process is not arduous and ensures that items that are voted into the capital budget will actually go forward. Conversely, the inclusion of a project in the capital budget may skew the approval process by applying undue pressure for approval itself or for accelerating the process beyond a reasonable time for the professionals involved to do a proper and thorough job.

Key Discussion – Board of Legislators finance staff hold the position that because the Board is a separate and co-equal branch of County government, it should have the ability to direct that its capital budget priorities make it into the printed version of the budget, notwithstanding the fact that the proposed project must still go through the capital projects review process involving the County Planning Board and the Capital Projects Committee. At present, the Charter can be interpreted in such a way so as to thwart the capital budget policy expressions and priorities of the Board.

6. *Issue 6: Should the Charter require a more formalized budget monitoring process that includes a quarterly reporting requirement?*

- a. *New subsection added to Charter Section 167* requiring the County Budget Department to issue quarterly performance reports showing the County's actual fiscal condition in relation to the annual budget adopted for that fiscal year. Said quarterly reports should be readily available for public inspection on line. Such quarterly reports should be issued by four dates certain throughout the fiscal year.
 - i. Pro: Allows for public monitoring of expenses
 - ii. Con: Accounting staff burden

Discussion Point/Observation – any quarterly reporting requirement should include baseline metrics as used in the County Executive's proposed budget.

7. *Issue 7: Should there be enhanced public notice when the County intends to borrow to pay for pension costs?*

- a. The Group believes that this issue will continue to grow in importance and portends to "hollow out" future County budgets.

- i. One potential recommendation would hold that if any future County Executive intends on using the current NYS Pension System cost amortization / borrowing facility, that they be required at a minimum to make a separate and distinct public notification of their intentions (dollar amount, cost, explanation) during the budget process.
- ii. Any borrowing (similar to other capital borrowing thresholds) should be put to a voter referendum. This may require a detailed analysis of timing because pension costs are (in reality) operating costs as opposed to capital expenditures.

Discussion/Observation – this issue warrants further discussion at the Commission-wide level along with staff research as the Group did not hear testimony on this point. Former Westchester County Legislator, Steve Tenore suggested a mandatory public referendum before any funds were borrowed for pension-related costs.

8. ***Issue 8 – Should there be a waiting/notice period for all Legislators before voting on adds/deletes?***

- i. Sections 167.81, 167.91, and 167.101 specify the process under which the Board may make changes to the proposed budget. Under current practice, the Memorandum of Proposals only contains proposed additions to the proposed budget, and those "adds" are presented in line item form without more description. The public hearing is usually held the day after the Memorandum is released. Deletions are presented separately and legislators have been required to vote almost immediately upon receipt of a similar spread sheet listing the proposed deletions.
- ii. Sections 167-89, 91, and 101 could be amended to require that no "adds" or deletes should be finally voted on until at least 48 hours after they have been proposed in open session. The Board shall not conduct a final vote on the budget until 48 hours after all additions and deletions shall have been voted upon, subject to reconsideration; during the 48 hour period after additions and deletions have been adopted, the County Final Proposed Budget shall be posted on the County's website.
- iii. Prior to a final vote of the full Board of Legislators on the Final Proposed Budget, the Board shall hold a public hearing. Any further changes that delete more than \$500,000 total or \$50,000 from a particular budget item shall be subject to a 24-hour "cure" period before a final budget vote shall be taken. The rule on the 24 hour final "change" period may be waived, but only upon the unanimous consent of all Legislators.

Key Discussion – The Group heard from Republican legislator Sheila Marcotte who suggested the following: under current practice, “adds” and deletes are proposed as line

items on a sheet that offers no serious description of what those “adds” or deletes would affect. Members of the Board are often required to vote almost immediately on those “adds” and deletes with little opportunity to understand the impact of what they are voting for or against, much less to consult with any parties affected by the proposals or the budget professionals retained by the Board or to hear from the public as to the pros/cons of the proposed adds/deletes.

Note from the Chairperson: *I would like to thank all the members and of the Budget and Finance Focus Group for their participation in our meetings and for their assistance with this report. The input received from everyone, no matter the degree, was very valuable and helped contribute to this daunting process. In particular I would like to express my appreciation to my Vice Chair, Paul Meissner and Paul Windels who served as our vital (and reliable) recording Secretary. Lastly, I would like to thank Charter Revision Commission Chair, Richard Wishnie for giving me the opportunity to lead our group.*

-- Jeffrey M. Binder

Budget and Finance Focus Group Meeting Agendas and Minutes

AGENDA – Westchester Charter Revision Commission:
Budget and Finance Focus Group
November 3, 2011

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee
 - b. Schedule for Meetings
 - c. Location of Meeting – rotation
 - d. Exchange of Contact Information
3. Discussion of Mission and Scope
4. Overview of Process -- Stacey Dolgin-Kmetz, Westchester County Board of Legislators
 - a. Review of Charter Provisions for Budget Process (Chapter 167 – County Budget)
 - b. Review of Budget Document – 2011 Westchester County Operating Budget
 - i. Overview – general discussion on how to read it
5. Current Budget Process
 - a. Overview of schedule of hearings
 - b. Focus Group coverage of hearings
6. Ideas for Invited Guests
7. Possible Sub-Focus Group Ideas
8. Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of November 3, 2011, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on November 3, 2011, at the offices of Jeffrey Binder, 68 East Post Road, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Ann McAndrews, and Paul Windels (physically) and Paul Meissner (Focus Group Vice Chair), Julie Killian, Derrickson Lawrence, and Matthew Thomas (by telephone). Also attending were Commission Chair Richard Wishnie, Melanie Montalbo staff liaison from the Westchester County Board of Legislators, and Stacey Dolgin-Kmetz, Legislative Counsel to the Board of Legislators.

After the meeting was called to order, the group agreed for the time being not to appoint a permanent secretary but to delegate the duties of secretary for any particular meeting to a member in attendance at that meeting. Paul Windels volunteered to serve as secretary for this meeting. It was agreed that the Focus Group should meet bi-weekly to the extent practicable for approximately one hour and that the usual meeting time would be 9:30 a.m.

Ms. Dolgin-Kmetz then addressed the meeting. At the outset, Ms. Dolgin-Kmetz advised the Focus Group that in her opinion, after consultation with the New York State Commission on Open Government, meetings of the Focus Group are subject to the New York Open Meetings Law. Asked her opinion as to how far the Open Meetings Law extended, Ms. Dolgin-Kmetz explained that the law covers formal subcommittee meetings where actions may be taken, as distinct from informal discussions, unless those discussions are intended and understood to supersede formal meetings.

Ms. Dolgin-Kmetz then guided the Focus Group through the pertinent provisions of Chapter 167 of the Charter regarding the budget calendar and the process of submission by the County Executive, revisions by the Board of Legislators, public hearings, and the veto and override process. It was noted that the County Executive has both a line-item veto and the general power to veto the entire budget and that the budget must be approved by December 27 of each year in order that the tax levy may be adopted by December 28. In the event that a budget is not adopted by December 31, the Charter provides that the prior year's operating budget remain in force. Chairman Wishnie pointed out that this default provision may come into conflict to the extent that collective bargaining agreements contain provisions that require increases in the operating budget.

Ms. Dolgin-Kmetz and the Focus Group also discussed the tax levy process, including issues as to the basis of assessments from each town, village, or city in the County, the role and function of the State Equalization Commission, and the possible effect of certiorari petitions, especially at a time when many real estate values have fallen below where they stood in prior years.

There was a general consensus among the members of the Focus Group that it should focus on identifying systemic problems that could be ameliorated through the Charter and that the Focus Group should try to observe as much of the process in action during the presentation and approval of the 2012 Budget.

The Focus Group scheduled its next meeting for November 14, 2011, at 9:30 a.m., at the offices of Focus Group Chair Jeffrey Binder.

Respectfully Submitted,

Paul Windels III
Acting Secretary

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

November 14, 2011

9:30 a.m. – 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee
 - b. Schedule for Meetings
 - c. Location and time of next meeting
3. Adoption of Minutes from November 3rd Meeting
4. Discussion of Mission and Scope (Continuation)
5. Current Budget Process
 - a. Overview of schedule of hearings
 - b. Focus Group coverage of hearings
6. Report from meeting with Board Budget Director and Deputy – Olivia Rhodes and Anne Reasoner
7. Possible Sub-Focus Group Ideas
8. Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of November 14, 2011, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on November 14, 2011, at the offices of Jeffrey Binder, 68 East Post Road, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Ann McAndrews, and Paul Windels (physically) and Paul Meissner (Focus Group Vice Chair), Julie Killian, Derrickson Lawrence, and Matthew Thomas (by telephone). Also attending were Commission Chair Richard Wishnie and Stacey Dolgin-Kmetz, Legislative Counsel to the Board of Legislators.

After the meeting was called to order, the minutes of the November 3, 2011, meeting were approved as submitted and Paul Windels volunteered to serve as secretary for this meeting. It was agreed that the Focus Group should next meet on November 28, 2011, at Mr. Binder's office at 9:30 a.m.

Mr. Binder reported that he had met with Olivia Rhodes, Director of Fiscal Affairs, and Ann Reasoner, Deputy Director of Fiscal Affairs of the Board of Legislators, both of whom previously served on the staff of former County Executive Spano, regarding the budget process. He recommended that the Focus Group should meet with them as well at a mutually convenient date. As reported by Mr. Binder, Ms. Reasoner and Ms. Rose recommended focusing on the flow of information between the County Executive and the Board and whether the County Executive was supplying adequate supporting information to the Board.

It was further noted that the Budget Director is required to report to both the County Executive and the Board but serves at the pleasure of the County Executive. One possible issue

for consideration is whether the Board should have the power to dismiss the Budget Director. In connection with this issue, the Board's power to subpoena and the process for issuing subpoenas were noted, as was the institutional need for the County Executive to have adequate bargaining power as collective bargaining agent for the County.

The Group also reviewed the upcoming meetings regarding the 2012 Budget and the availability of members of the Group to attend some of those meetings. The role of the accounting firm of Bennett, Storch & Kielsen in auditing the proposed budget and reporting to the Board was reviewed, and it was proposed that the Group meet with BKS after the completion of the 2012 Budget to obtain BKS's feedback on the budget process.

The Group also discussed the process of approving the capital budget and the interrelation of Charter Sections 167.21 and 167.81 with respect to the ability of the Board to increase proposals in the capital budget. The amount of the budget subject to the control by the County Executive and the extent and history of mandated items

The meeting was then adjourned.

Respectfully Submitted,

Paul Windels III
Acting Secretary

Memo

To: Focus Group Members
From: Jeffrey Binder
CC: Richard Wishnie
Date: 12/13/2012
Re: Meeting with Olivia Rhodes, Director of Fiscal Affairs, Westchester County Board of Legislators, Ann Reasoner, Deputy Director of Fiscal Affairs, Westchester County Board of Legislators

On November 10, 2011, I had the pleasure of meeting with the above-named County Board personnel and me with them for over an hour to discuss their observations of the County Budget process and get from them some ideas for possible Charter changes. They suggested three specific ideas this focus group could keep in mind as it evaluates the budget process. They include:

- 1) Creating an earlier deadline for the release of the capital budget – perhaps October 15th of each year.
- 2) Clarify section 167.21 of the Charter in a way that allows the Board of Legislators to add capital projects irrespective of the timeframe set forth for other County departments. The net effect of this would be to have the Board's projects included in the printed budget.
- 3) Address the issue of potential divided/dual loyalty of the Budget Director – loyalty to County Executive and loyalty to Board of Legislators.

I hope to have Ms. Rhodes and Ms. Reasoner before the Focus Group in the near future.

Jeff Binder

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

November 28, 2011

9:30 a.m. – 10:30 am 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee (any other volunteers to give Paul Windels a break?)
 - b. Location and time of next meeting
3. Adoption of Minutes from November 14th Meeting
4. Discussion of Mission and Scope (Continuation)
5. Current Budget Process
 - a. Overview of schedule of hearings
 - b. Focus Group coverage of hearings
 - c. Report from meetings attended thus far
 - i. observations as to process
 - ii. substantive comments on budget matters
6. Special invited guest: Paul Noto, Esq.
 - a. Q & A
7. Suggestions for future guest speakers
8. Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of November 28, 2011, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on November 28, 2011, at the offices of Jeffrey Binder, 68 East Post Road, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Ann McAndrews, and Paul Windels (physically) and Paul Meissner (Focus Group Vice Chair), Julie Killian, and Matthew Thomas (by telephone). Also attending were Stacey Dolgin-Kmetz, Legislative Counsel to the Board of Legislators, and Paul Noto, a former Majority Leader and Minority Leader of the Board and Mayor of Mamaroneck (in person), and Commission Chair Richard Wishnie (by telephone).

After the meeting was called to order, Paul Windels volunteered to serve as secretary for this meeting. Mr. Noto then discussed his experience with the budget process from the standpoints of majority and minority leader and of dealing with county executives from both parties. Noting that the Charter gives the Board policymaking authority for the County, he described how the Board first took an independent stance on budget issues under the leadership of Steve Tenore in the early 1990's as well as the general nature of how the budget process has worked within the Board and between the Board and the County Executive during his time of service.

In Mr. Noto's view, the budget process is too short to enable legislators to analyze the budget comprehensively. He pointed out that membership on the Board is a part time position and that the Board has not always hired staff with the experience to analyze a budget in depth – whereas the current Board has hired several staffers who were senior members of the prior

County Executive's budget staff. A key criterion in his view is the ability of Board members to follow up on requests for information from the various executive departments. He would like to see the initial budget released in early October but is also open to the concept of operating on a different fiscal year. Mr. Noto also observed, in connection with the timing issue, that legislators are reluctant to raise taxes shortly before an election.

Mr. Noto does favor having a fixed deadline for adopting the budget with a default mechanism, as it ensures that there will be a budget of some sort no matter what happens in the budget process. He considers the public hearings helpful in that they educate the public about the process and the issues at hand, but that there is too little time to enable the process to accomplish as much as it should. The individuals and organizations that participate tend to be those directly affected by the budget; those same individuals and organizations have the strongest interest in county politics and tend to form the basis of support for most county political activity. By contrast, he experienced far more public interest in day-to-day affairs than when he served in local government in Mamaroneck.

His observations of the process itself include that some legislators operate as workhorses and others as show horses. The same is true for the presentation of parts of the budget – in his view the best budget presentations are concise (less than 30 pages) and focus on the significant issues raised with respect to a particular departmental budget. Ideally, the Budget Chair should ask department heads to focus on what they feel they need in their budgets and why specific items that are proposed to be cut should or should not be cut.

He suggested that an independent Budget Commissioner might improve the overall process and urged that the Focus Group find out if any County has such an officer. Alternatively, the possibility of an elected comptroller should be considered.

As an overall matter, Mr. Noto believes that the Charter works when elected officials cooperate, but not if they operate in a dysfunctional manner. In his experience, Members of the Board cooperated across party lines and with the County Executive when the Board was closely divided (9-8 or 10-7), as was the case when he served, and it was easier to cooperate in prosperous economic times when the tax base generated sufficient revenues to pay for what was proposed. He never served with a Board aligned like the current Board, with a 12-5 majority in favor of the party in opposition to the County Executive, but noted as an objective matter that such a majority at least opens up the possibility of the majority caucus becoming less inclined to compromise with members of the minority or the County Executive.

It was agreed that the Focus Group should next meet on December 9, 2011, at Mr. Binder's office at 9:30 a.m.

The meeting was then adjourned.

Respectfully Submitted,

Paul Windels III
Acting Secretary

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

December 9, 2011

9:30 a.m. – 10:30 am 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee (any other volunteers to give Paul Windels a break?)
 - b. Location and time of next meeting
3. Adoption of Minutes from November 28th Meeting
4. Presentation from Special Invited Guest – Former Chairman of the Westchester County Board of Legislators: Stephen P. Tenore (New Rochelle)
 - a. Q & A
5. Discussion of Mission and Scope (Continuation)
6. Current Budget Process
 - a. observations as to process
 - i. substantive comments on budget matters
7. Suggestions for future guest speakers
8. Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of December 9, 2011, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on December 9, 2011, at the offices of Jeffrey Binder, 68 East Post Road, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Matthew Thomas, and Paul Windels (physically) and Paul Meissner (Focus Group Vice Chair), Julie Killian, Derrickson Lawrence, and John Mattis (by telephone). Also attending by telephone were Stacey Dolgin-Kmetz, Legislative Counsel to the Board of Legislators, Chris Crane, Legislative Counsel to the Board of Legislators, Stephen P. Tenore, a former Chair of the Board, and Commission Chair Richard Wishnie.

After the meeting was called to order, Paul Windels volunteered to serve as secretary for this meeting. The Minutes of the November 14 and 28, 2011, meetings were approved. Mr. Tenore then addressed the meeting based on his 11 years' experience on the Board, including four years as Chair. In his view, adherence by the County government to the Charter raised a greater concern in the first instance than Charter revision. One example he provided was the Westchester Medical Center; as originally conceived, the Center was to be spun off, with the County to remain responsible for indigent care, but, after he left the Board, the Center was converted to a public benefit corporation, with the County responsible for all of its obligations. Other examples include the use of emergency contract provisions to forestall bidding on contracts that should be placed out for competitive bid and the creation of legislative committees beyond the four expressly authorized in the Charter (Budget and Appropriation, Public Works, County Office, and Legislation).

With respect to the budget process, while the Board was governed by a coalition of Republicans and Democrats, there never was a supermajority. As a result, the dynamics of reaching a budget required more give and take. He believes it advantageous for the County to be on a different fiscal year from the State and Federal governments, first because it required the County to plan on a worst case scenario and second because it enabled the County government to address different budgets at different times of the year. He considers the overall budget process too short, but also noted a lack of follow-up on the part of the Board to ensure that the Budget of any particular year has been complied with. He does not think that the Board is overburdened with its workload, and considers that the Board's budget, which has increased by 400% in the last decade, is excessive. He does believe that there should be a separate budget department and counsel for the Board. He would consider an independent budget office favorably, subject to determining how the personnel of that office would be appointed and how the office would be staffed. He would be in favor of an elected Comptroller and Inspector General.

Mr. Tenore believes that non-capital borrowing from pension funds or the State should require approval by public referendum. He noted that the Board never borrowed from the reserve fund during his years of service and that the rating agencies rating the County's creditworthiness employ a rule of thumb that the reserve fund of any governmental body should be at least 5% of its budget.

Throughout the discussion, Mr. Tenore expressed concern about corruption – both its existence and its appearance – in the county government. He noted, based on his personal experience, the ability of government officials to influence the behavior of other officials through the power to increase salary, add staff and other perquisites, and award contracts, as well as the ability to reduce or eliminate any of those benefits.

It was agreed that the Focus Group should next meet on January 13, 2012, at Mr. Binder's office at 9:30 a.m.

The meeting was then adjourned.

Respectfully Submitted,

Paul Windels III
Acting Secretary

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

January 13, 2012

9:30 a.m. – 10:30 am 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee (any other volunteers to give Paul Windels a break?)
 - b. Location and time of next meeting
3. Adoption of Minutes from November 28th Meeting
4. Discussion of Mission and Scope (Continuation)
5. Special Invited Guest – Mark Tulis, Esq.
 - a. Q & A
6. Current Budget Process
 - a. Review of Focus Group coverage of hearings
 - b. Report from meetings attended
 - i. observations as to process
 - ii. substantive comments on budget matters
 - c. Overall observations of budget process
7. Suggestions for future guest speakers
8. Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of January 13, 2012, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on January 13, 2012, at the offices of Jeffrey Binder, 68 East Post Road, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Julie Killian, Ann McAndrews, John Mattis, and Paul Windels (physically) and Derrickson Lawrence, (by telephone). Also attending were Stacey Dolgin-Kmetz, Legislative Counsel to the Board of Legislators, and Mark S. Tulis, Chair of the Westchester County Healthcare Corp. and a former member of the Board of Legislators (as well as former Town Supervisor and Councilmember for the Town of Newcastle (in person) and Commission Chair Richard Wishnie (by telephone).

After the meeting was called to order, Paul Windels volunteered to serve as secretary for this meeting. The Minutes of the December 9, 2011, meeting were approved subject to changes given to Mr. Windels. Mr. Tulis then addressed the meeting. His overall observation was that the budget process worked properly with respect to the 2012 budget. He noted that the various players in the budget process achieved their major goals – for example the approval of the sewer project for New Castle, which had previously been held up by certain individual Board members. In his view, the ability of one or two powerful legislators to hold up a vote impairs the ability of the Board to function. He therefore recommends that any individual member of the Board of Legislators should be able to have the Board vote on any matter simply by requesting a vote. He also pointed out that he had served on a commission that had recommended abolition of “in lieu

of” payments but that the Board had returned to the custom of making such payments to members about a year after that recommendation had been made.

Mr. Tulis believes that the budget process is too compressed time-wise and that ideally it should be completed before Election Day – or at least the County Executive’s proposed budget submitted before that date. He would favor the creation of an independent budget officer, but not an elected official. On the other hand, he believes that the Board could function with less budget staff – when he served the Board’s budget staff comprised approximately 14 employees.

He sees the tax collection system as a major problem, especially in difficult financial times – including times when some people or entities simply fail to pay taxes. Noting that Westchester’s system of towns guaranteeing tax collections upstream is a very rare practice, and that at present there are approximately 45 different assessing units in the County, he recommended that the County should centralize both the assessment and the collection of taxes. The political difficulties of implementing a county-wide assessment process were discussed, especially the concern of seniors living on fixed incomes that a drastic reassessment would disrupt the entire structure of their retirement. A related problem arises out of the ability of condominiums and cooperatives to opt to be revalued based on the rental market. It was also noted that the assessment process cannot be changed by Charter amendment, but requires legislation from New York State, and the history of the failure of such legislation to become law during the 1990’s was explained.

Mr. Tulis explained that the Medical Center’s debt is not guaranteed by the County at present and that the County provides it with no funds. The County is landlord for the Medical Center and provides services, such as snow removal and steam heat, for which the medical Center pays between \$9 and \$12 million per year. The Medical Center also provides services to

the County Jail, and is reimbursed at the Medicaid rate. The Medical Center has had good relations with both the Board of Legislators and the County Executive. Its board is appointed through a complicated process – Mr. Tulis believes that the Medical Center’s board should be self-run, but notes that that is an issue that needs to be resolved by state legislation (he does believe that such legislation would be forthcoming if the Board of Legislators and the County Executive requested it via Home Rule Message).

Mr. Tulis has tried to consolidate laboratory services between the Medical Center and other public entities.

It was agreed that the Focus Group should next meet at a date to be determined in order to focus and synthesize the information made available to it to date and to map out what additional information might be needed in order for it to make recommendations to the full Commission.

The meeting was then adjourned.

Respectfully Submitted,

Paul Windels III
Acting Secretary

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

February 8, 2012

6:30 p.m. – 8:00 p.m. 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee (any other volunteers to give Paul Windels a break?)
3. Adoption of Minutes from January 13th Meeting
4. Discussion of Mission and Scope (Continuation)
5. Observations of the budget process for 2011-12
6. Review of emergent and common themes:
 - a. Timing of fiscal year
 - b. Timing of budget
 - c. Increased capacity of Board of Legislators to analyze budget
 - i. Independent Budget Office
 - d. Charter provision for dual loyalty of Budget Director
 - e. Municipalities' guarantee of tax payments to County
 - f. Is the Board of Legislators a "county department" for capital budget timing purposes? See sec. (167.21 – Estimates of county departments and agencies.)
 - g. County-wide revaluation
 - h. County Executive to have authority to hold public budget hearings (*new – to be examined)
7. Methodology for discussion

- a. Discovery and Research
- b. Assumptions and analysis
- c. Findings and conclusion
- d. Recommendations

- 8. Timeline for deliverables
- 9. Individual assignments for committee members
- 10. Suggestions for future guest speakers
- 11. Adjourn

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

March 14, 2012

6:30 p.m. – 8:00 p.m. County Office Building, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee (any other volunteers to give Paul Windels a break?)
3. Adoption of Minutes from February 8th Meeting
4. Discussion of Mission and Scope (Continuation)
5. Observations of the budget process for 2011-12 – Special Guest: Olivia Rhodes, Director of Fiscal Affairs, County Board of Legislators
6. Continued discussion of common themes:
 - a. Timing of fiscal year
 - b. Timing of budget
 - c. Increased capacity of Board of Legislators to analyze budget
 - i. Independent Budget Office
 - d. Charter provision for dual loyalty of Budget Director
 - e. Municipalities' guarantee of tax payments to County
 - f. Is the Board of Legislators a “county department” for capital budget timing purposes? See sec. (167.21 – Estimates of county departments and agencies.)
 - g. County-wide revaluation
 - h. County Executive to have authority to hold public budget hearings (*new – to be examined)

7. Additional suggestions
8. Timeline for deliverables – what are the deliverable?
 - a. Written committee report
 - b. Draft legislation
 - c. Attorney opinion
9. Individual assignments for committee members – status.
10. Suggestions for future guest speakers
11. Adjourn

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

April 30, 2012

5:30 p.m. – 7:00 p.m. 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee (any other volunteers to give Paul Windels a break?)
3. Adoption of Minutes -- hold over if no quorum.
4. Discussion of Mission and Scope (Continuation)
5. Observations of the budget process for 2011-12
6. Continued discussion of common themes:
 - a. Timing of fiscal year
 - b. Timing of budget
 - c. Increased capacity of Board of Legislators to analyze budget
 - i. Independent Budget Office
 - d. Charter provision for dual loyalty of Budget Director
 - e. Municipalities' guarantee of tax payments to County
 - f. Is the Board of Legislators a "county department" for capital budget timing purposes? See sec. (167.21 – Estimates of county departments and agencies.)
 - g. County-wide revaluation
 - h. County Executive to have authority to hold public budget hearings (*new – to be examined)
7. Additional suggestions

8. Timeline for deliverables – what are the deliverable?

- a. Written committee report
- b. Draft legislation
- c. Attorney opinion

9. Individual assignments for committee members – status.

10. Suggestions for future guest speakers

11. Adjourn

-- AGENDA --

Westchester Charter Revision Commission:

Budget and Finance Focus Group

June 7, 2012

6:00 P.M. – 7:00 P.M. – County Office Building

Call-in number: Dial-in Number: (559) 546-1000

Access Code: 160371

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee
3. Adoption of Minutes -- hold over if no quorum.
4. Special Guest – Citizens Budget Committee
5. Discussion of Mission and Scope (Continuation)
6. Continued discussion of common themes:
 - a. Timing of fiscal year
 - b. Timing of budget
 - c. Increased capacity of Board of Legislators to analyze budget
 - i. Independent Budget Office
 - d. Charter provision for dual loyalty of Budget Director
 - e. Municipalities' guarantee of tax payments to County
 - f. Is the Board of Legislators a "county department" for capital budget timing purposes? See sec. (167.21 – Estimates of county departments and agencies.)
 - g. County-wide revaluation
 - h. County Executive to have authority to hold public budget hearings (*new – to be examined)

7. Additional suggestions

8. Suggestions for future guest speakers

9. Adjourn

-- AGENDA --

Westchester Charter Revision Commission:
Budget and Finance Focus Group

June 21, 2012

6:00 P.M. – 7:00 P.M. – County Office Building – 6th Floor
Call-in number: Dial-in Number: (559) 546-1000
Access Code: 160371

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee
3. Adoption of Minutes -- hold over if no quorum.
4. Special visit with Larry Soule – Westchester County Budget Director
 - a. Continued discussion of common themes:
 - b. Timing of fiscal year
 - c. Timing of budget
 - d. Increased capacity of Board of Legislators to analyze budget
 - i. Independent Budget Office
 - e. Charter provision for dual loyalty of Budget Director
 - f. Municipalities' guarantee of tax payments to County
 - g. Is the Board of Legislators a "county department" for capital budget timing purposes? See sec. (167.21 – Estimates of county departments and agencies.)
 - h. County Executive to have authority to hold public budget hearings (*new – to be examined)
5. Additional suggestions
6. Suggestions for future guest speakers

Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of June 21, 2012, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on June 21, 2012, at the Michaellean Office Building, 148 Martine Avenue, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Julie Killian, Matthew Thomas, and Paul Windels (physically) and Derrickson Lawrence, Ann McAndrews, and John Mattis (by telephone). Also attending by telephone was Commission Chair Richard Wishnie. Also present were Laurence Soule, County Budget Director, and Gideon Grande, Public Administration Intern in the Budget Department.

After the meeting was called to order, the minutes of the last meeting were held over until the next meeting and Paul Windels volunteered to serve as secretary for this meeting.

Before inviting Mr. Soule to speak, Mr. Binder outlined some of the issues that have been raised before the Focus Group by other witnesses, such as the timing of the fiscal year, the capacity of the Board of Legislators to analyze the budget, and the dual reporting responsibilities of the Budget Office to both the County Executive and the Board.

Mr. Soule acknowledged the challenge of maintaining a dual reporting relationship to both the County Executive and the Board and noted that he met that challenge by reporting to both entities based on professional grounds as much as possible. He pointed out that the State Budget Director reports only to the Governor and agreed that the ability of the County Executive to appoint him could have influence in connection with political issues, although he noted that he can only be dismissed before the expiration of his term by the County Executive plus a 2/3 majority vote by the Board.

In terms of the timing of the budget process, Mr. Soule acknowledged that the time given the Board to make additions and deletions (early December) and to pass a final budget (December 27) raises potential issues as compared with the State Legislature, which receives the Governor's proposed budget on January 20 and has until April 1 to pass a final budget. At the same time, he pointed out a number of factors that help the current process to function more effectively, including:

The role of O'Connor Davies (formerly Bennet Storch & Kielson) as consultants for the Board. O'Connor Davies has a team of auditors on site and with direct access to the budget data for three to four weeks each year. O'Connor Davies makes its recommendations to the Board before December 1, and at approximately \$125,000 per year, are very reasonable.

Mr. Soule described his and his staff's working relationship with O'Connor Davies as "professional" and "good".

The Board gives the Budget Department a list of questions close to November 15, which the Budget Department answers as soon as it can.

His interaction throughout the year with the Budget Committee of the Board. The Budget Committee has seven members, but other legislators can attend Budget Committee meetings and the process encourages them to do so.

Having a budget proposed at a later date in the fiscal year enables it to rely on more recent data and therefore better information.

Mr. Soule does not know if information provided by O'Connor Davies to the legislative staff is available to all legislators. He noted that O'Connor Davies makes recommendations to the Board but does not comment on the Board's proposed "adds" and "deletes".

With respect to revenue projections, Mr. Soule stated that his practice was to be "conservative", and noted the State procedure under which both houses of the Legislature and the Governor must agree on revenue projections or the Comptroller steps in. Mr. Wishnie added

that, in his experience, O'Connor Davies and its predecessor BSK, brings the Board "back to reality" with respect to revenue projections.

Mr. Soule does not see any reason to have a different fiscal year, although he agreed that a July 1-June 30 fiscal year would have the advantages of knowing State revenue numbers and also the holiday sales tax proceeds.

In response to a question from Mr. Wishnie about his understanding of the current financial state of affairs, Mr. Soule stated that the Budget Department prepares quarterly forecasts (each one based on the actual data for that and the preceding quarters during that fiscal year). As the economic slump continues, the downside risk becomes greater.

Mr. Soule considers the issues surrounding pensions to be a "huge problem around the State" and that the ability of governments to borrow from pension fund assets is "bad fiscally." He thinks that having the County self-insured with respect to healthcare has been advantageous. Healthcare costs have been divided 60-40 between active employees and retirees. He noted that he can only invest in fully collateralized demand deposits, which yield 50-60 basis points.

With respect to the capital budget process, Mr. Soule believes that a clear Charter provision regarding when the Board could include capital projects would be helpful. Few other counties have as much of a vetting process for capital projects as Westchester, the vetting process is needed in order to determine the feasibility of any given process, and there is no reason the Board should not have their projects vetted before they can be included in the budget. In addition, Mr. Soule pointed out that the administration has offered the Board the opportunity to get their projects vetted in advance.

When asked what the Commission could do to maintain a strong standing with rating agencies, Mr. Soule replied that the agencies demand a conservative budget process and criticize

drawdowns of reserves to balance budgets. The agencies like governments to have the flexibility to accommodate themselves to actual events. Consequently, large contingencies are built into departments like Social Services. He characterized putting a reserve requirement into the Charter as a “double edged sword”, as the requirement must have teeth on the one hand but cannot be so strict as to be useless on the other. He did not express an opinion as to whether it would help to require a supermajority to reduce reserves below a certain percent.

When asked about a multiyear budget, Mr. Soule replied that he favors using a multiyear financial plan, based on actual data from the prior year, the current year estimate, and forecasts for the following three years (i.e. actual 2011, estimated 2012, and forecasted 2013-15). He operates on this basis and shares his analysis with the Board. On the possibility of having an elected comptroller, he said that Westchester was large enough for one, but that it might lead to increased bureaucracy in the process.

The meeting was then adjourned.

Respectfully Submitted,

Paul Windels III
Acting Secretary

-- AGENDA --

Westchester Charter Revision Commission:
Budget and Finance Focus Group
November 1, 2012
6:30 pm 68 East Post Road, White Plains, NY 10601

1. Welcome
2. Housekeeping
 - a. Volunteer for Secretary to Committee
3. Adoption of Minutes from prior meeting
4. Discussion of Mission and Scope (Continuation)
5. Special Invited Guest – Shiela Marcotte – County Legislator
 - a. Q & A
6. Current Budget Process
 - a. Review of Focus Group coverage of hearings
 - b. Report from meetings attended
 - i. observations as to process
 - ii. substantive comments on budget matters
 - c. Overall observations of budget process
7. Adjourn

Westchester Charter Revision Commission
Budget and Finance Focus Group
Minutes of November 1, 2012, Meeting

A meeting of the Budget and Finance Focus Group of the Westchester Charter Revision Commission was held on November 1, 2012, at the offices of Jeffrey Binder, 68 East Post Road, White Plains, New York. Present were focus group members Jeffrey Binder (Focus Group Chair), Julie Killian, and Paul Windels (physically) and Derrickson Lawrence (by telephone). Also attending were Sheila Marcotte, a member of the Board of Legislators and Vice Chair of the Budget and Appropriations Committee of the Board and Matt Richter of the Board of Legislators staff.

After the meeting was called to order, Paul Windels volunteered to serve as secretary for this meeting.

Ms. Marcotte believes that Charter Sections 167.81 and 167.101 make little sense in terms of achieving transparency and open government and need to be amended. Her particular concern is that the Board is required to vote on proposed “adds” and “deletes” without having adequate time to consider them or for the public to comment on them. Specifically, members of the Board who are not in the Majority Caucus are presented with spreadsheets of proposed “adds” and “deletes” with no meaningful description of what those proposed changes signify. Sample pages from these spreadsheets from the 2011 budget are annexed hereto as Exhibit A. Within minutes of the distribution of the spreadsheet, the Budget and Appropriations Committee is required to vote on these proposed “adds” and “deletes”. Although the minority Board members can meet with O’Connor Davies during the budget process, they do so before receiving the spreadsheet and do not have an opportunity to go over the items on the spreadsheet with O’Connor Davies or with the departments of County Government that may be affected by those

proposals. Nor is the public given the opportunity to comment on the proposed “adds” or “deletes” before the Budget and Appropriations Committee vote.

Ms. Marcotte noted that, although 167.81 does not expressly provide that only “adds” be proposed by the first Monday in December, that has been the Board’s practice, with “deletions” taking place at a later date and even being able to be made from the floor. She is particularly concerned with having adequate time to vote on “deletions” because by definition “deletions” adversely affect someone’s job or a particular project. She acknowledged, however, that proposing and voting on “adds” and “deletes” together might involve “too many moving parts” as a practical matter and that it might be necessary to make “deletions” up to the last minute in order to ensure a balanced budget.

Ms. Marcotte has proposed that the Charter be amended to provide for a 48 hour period between the proposal of “adds” and the vote on those “adds” and for a similar 48-hour period between the proposal of any “deletes” and the vote on those “deletes.” Those 48-hour periods would enable Legislators to consult with the various Departments affected by the proposed “adds” and “deletes” and with the Budget Office as well and for public comment. She would also prefer to have “adds” and “deletes” proposed on the same day, with the same 48-hour waiting period before they could be voted on. She also believes that some adjustment or extension of dates would be helpful to facilitate the process, and noted that last year the County Executive took the full 10 days allowed to him to make his vetoes when he could have made most if not all of his vetoes right away.

As Budget and Appropriations Committee Vice Chair, Ms. Marcotte has oversight of the budget throughout the year. Commissioners from the County government respond to her inquiries. She believes that the Board and its staff have the capacity to oversee Westchester’s

\$1.8 billion budget and for her role as requiring her to be as involved with the budget as possible on an ongoing basis. The Board receives a substantial amount of information throughout the year and has plenty of time to digest it and can compare budget lines with lines from prior budgets. In her words, the process is good until the 1st of December.

Ms. Marcotte believes that the current Budget Director has done an excellent and professional job and that his political allegiances have been irrelevant to his performance of his duties.

Ms. Marcotte noted two additional items relating to the Charter in general. First, that there is disagreement between the Board majority and other Board members and the County Executive as to what the Board may do by resolution (which is not subject to veto) rather than what it must do by act. Second, although the Charter calls for a Compensation Advisory Board to meet and consider the compensation paid to Legislators and staff, the Board has refused to appoint or convene such a body.

The meeting was then adjourned.

Respectfully Submitted,

Paul Windels III
Acting Secretary

Charter and Code Focus Group Report

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

CHARTER AND CODE FOCUS GROUP REPORT

Charter and Code Focus Group

Chair	Guy Parisi, Esq.
Vice-Chair	Florence McCue, Esq. Jane Morgenstern
Contributors	David A. Menken, Esq. Steve Mayo Gary J. Zuckerman, Esq.
Special Counsel	Lester Steinman, Esq.
Staff	Chris Crane, Esq. Stacey Dolgin-Kmetz, Esq.
Commission Chair	Richard G. Wishnie
Committee Coordinator	Melanie Montalto

Mission of the Charter and Code Focus Group:

The Mission Statement was developed by the Charter and Code Focus Group and approved on January 14, 2012. During the past year, as the Group obtained further information and identified concerns we believe the County should address, we have refined our issues and our mission as we formulated recommendations for discussion and consideration by the full Charter Revision Commission (“the Commission”)

The mission of the Charter and Code Focus Group of the Westchester County Charter Revision Commission is to become well acquainted with the form and substance of the Westchester County Charter and Administrative Code; consider the 1988 recommendations of the prior charter Revision Commission and other relevant studies; and review the recommendations of the current Commission for placement into the Charter and Code.

To accomplish this mission, the Focus Group will:

- 1. Review the language and form of the Westchester County Charter and Administrative Code;**
- 2. Suggest revisions in the language of the Charter and Administrative Code;**

- 3. Review the recommendations of the prior Charter Revision Commission that were not incorporated into the current Administrative Code;**
- 4. Identify inconsistencies and redundancies between the Charter and the Administrative Code; and**
- 5. Review recommendations of the full Commission for proper placement into the Charter and Administrative Code.**

The Charter and Code Focus Group met nine times as of December, 2012.

Meeting dates:

November 11, 2011
January 14, 2012
February 16, 2012
March 21, 2012
April 4, 2012
June 13, 2012
July 17, 2012
October 3, 2012
November 15, 2012

*The minutes of those meetings are here attached as Appendix A.

Charter/Code Focus Group members also attended various meetings of other focus groups when they were addressing topics of interest to our Focus group.

The Charter and Codes Focus Group invited various present and former Westchester County Attorneys to meet with us and to respond to questions concerning whether the Charter/ Code needed to be changed in certain areas. Some specific issues addressed were:

- The appointment process
- The Status of the *Playland Commission*

We also addressed the issue of whether there should be separate attorneys for the Executive and Legislative branches of County government.

Our Focus Group met with:

Robert Meehan, Esq. March 21, 2012
Sam Yasgur, Esq. April 4, 2012
Charlene Indelicato, Esq. June 13, 2012

We also met with Joseph Stout, Former Parks Commissioner on July 17, 2012.
(At present he is the Executive Director of *Friends of the Parks*.)

During the past year, as we obtained further information about the ongoing issues that the Charter/ Code Focus Group might address, we have formulated suggestions for Charter revision and for further study.

ISSUES

1. Role of the County Attorney

Can the County Attorney adequately represent both the County Executive and the Board of Legislators when they are in disagreement on matters of law? If not, what shall be the charter change needed to address this issue? Should there be an attorney hired for the Board of Legislators? If so, should this attorney be an employee of the county or a consultant? Should there be more than one attorney hired?

Problem: Despite the requirement in the Charter that the County Attorney represent both the Executive and Legislative branches of County government, there has been a history, particularly recently, of the two branches asserting conflicting positions on Charter and Code interpretation or other matters of law. Therefore, when questions of law arise the Board of Legislators may be required to hire outside counsel to represent the Board against the County Executive's position and/or actions.

Although each former County Attorney we interviewed agreed that the County Attorney is the attorney for the County and not for only one branch of county government, our focus group may want to recommend for consideration by the full Commission amending the Charter to provide for separate attorneys for each branch of government. The rationale for such a suggestion is that there have been times when conflicts arise that make it impossible for the County Attorney to adequately advise and represent both branches of government. Currently the Board of Legislators and certain Board members have filed several lawsuits to compel the County Executive to enforce a Law passed by the County Board or to abide by the County Charter/Code. In these instances where there is a conflict between the positions of the County Board and the County Executive, the County Board has been required to hire outside counsel because the Charter does not provide for attorneys to represent the BOL in these types of matters.

Information Gathered:

Former County Executives Alfred DelBello and Andrew Spano, each addressed the entire Charter Revision Commission and former County Legislator Martin Rogowsky, addressed the Executive/Legislative focus group.

January 25, 2012 Alfred DelBello, former County Executive. Mr. DelBello addressed the entire Charter Revision Commission. He indicated that in his opinion, the County is the County Attorney's client and that it is the most important position in County government. He feels that the County Attorney should operate according to the Charter and not represent the County Executive or the County Board against each other.

February 28, 2012 **Martin Rogowsky, Esq., former County Legislator** Mr. Rogowsky addressed the Executive/Legislative focus group. Mr. Rogowsky essentially stated that the County Attorney should represent both the executive and legislative branches of county government, but that is not always what happens. He explained that the County Attorney owes his position to the County Executive and serves at the will of the County Executive and it is natural for him/her to favor the County Executive over the Board of Legislators. He further indicated that the County Attorney position is very powerful and whether the County Board should have their own attorneys on staff is a key issue. He believes that the County Board should be able to hire its own attorney(s).

March 21, 2012 **Robert Meehan, Esq., present County Attorney** Mr. Meehan stated that the County Attorney represents the County, not just the County Executive or just the County Board. He does not believe that the County Board should hire their own attorneys as a matter of course. He said that in some circumstances, an attorney from his office could be assigned to represent the County Board in disputes with the County Executive, however, he also said that in cases of disputes, his office could not represent one over the other. He stated that his office does work for the BOL. When the possibility of mediation of disputes between the branches was brought up, the question arose as to whether it should be advisory or binding. No recommendation was offered by Mr. Meehan in this regard.

March 29, 2012 **Andrew Spano, former County Executive** Mr. Spano addressed the entire Charter Revision Commission. He informed the Commission that Suffolk County has a model where every branch of government and every primary official has their own attorney. He also stated that it was necessary for the County Executive to work with both political parties represented on the County Board and to have open communication with the County Board. He also stated that if the County Board did not agree with the opinions of the County Attorney then the County Board should have its own counsel.

April 4, 2012 **Sam Yasgur, Esq., former County Attorney** Mr. Yasgur did not think there should be a separate attorney hired for the County Board. He stated that when he was the County Attorney and disagreements between the 2 branches of government arose he acted as a neutral buffer between the parties. He always made it clear to both branches of government that he was the attorney for the County and would interpret legal issues in the light most favorable to the County.

June 13, 2012 **Charlene Indelicato, Esq., former County Attorney** Ms. Indelicato stressed that the County Attorney has an ethical responsibility to both the County Board and the Administration. She stated that there is never an easy relationship between the County Executive and the County Board. She remembers acting as a mediator between the parties during the budget process and that she would provide guidance and information to both sides. She believes that there should be an open line of communication between the County Attorney and both branches of County government, which she does not believe exists at the present time. Also, she stressed that in providing counsel to the County Board, she required requests for assistance to come from the Chair

of the County Board or the Chairs of County Board committees rather than from each Legislator individually. In this way, the same questions were not addressed repeatedly.

Discussion:

Although the County Attorney is charged with representing the County and not one branch of government over the other, there is often an inherent conflict for the County Attorney's office when the County Executive and the County Board have different positions on matters of law or matters of Charter/Code interpretation. Disagreements can be more costly and take much longer to resolve when either branch is required to hire outside counsel.

Recommendation:

Bring to full Commission for discussion a possible change of all applicable provisions of the County Charter and Code to provide for separate attorneys for the County Board in addition to the position of County Attorney who would still represent the County,

Sections of Charter for possible change include Laws of Westchester County Chapter 158 and section 107.81, attached hereto.

*The sections of the Charter for possible change are attached as Appendix B

2. Parks District

Should a Parks District be established? Is this an effective way of delivering more for less?

Problem: Parkland and Parks and Recreation in our County are viewed by some as an unaffordable luxury even as others deem them a necessity.

Discussion:

Chapter 134 of the County Charter was amended to replace the County Recreation Commission with the Department of Parks, Recreation and Conservation. A suggestion was made to now create a separate district to address all matters related to parks. Our focus group met with former Commissioner of Parks, Recreation and Conservation Joseph Stout on July 17, 2012 to discuss the possibility of creating a Parks District (similar to the County water and sewer districts) for the purpose of cutting costs while maintain and possibly enhancing our County Parks and Recreation offerings.

In favor of Creation of a Parks District:

Quality of Life: It is anticipated that removing Parks from the General Fund will enhance the probability that parkland, conservation, and recreation opportunities will thereby be improved.

Costs to the County: If the parks were separated from the General Fund in a separate district, there would be more of an opportunity to obtain private grants and donations for the parks since any surplus would not go into the General Fund but stay within the district. In addition, the County would pay less and less for parks operations based on the receipt of more and more outside money.

According to Mr. Stout, fees collected at a variety of park venues provide 70% of the operating costs of such venues at this time and the 30% that is provided by taxes amounts to only \$35 a year per resident. He stated that this amount could be even further reduced with a separate parks district.

Against Creation of a Parks District:

A separately held and reported district could be viewed by county residents as a “new tax” and be rejected by voters since it would seem to increase their total tax bills.

Rye Playland

Even though the charter does not provide that Playland is part of the Parks Department, in reality the Parks Department is responsible for Playland’s operation and maintenance. In addition, the Playland Commission, currently included in the Charter, has not been constituted and therefore has not met in years. Ms. Indelicato, former County Attorney, informed us during her interview on June 13, 2012 that if the Playland Commission were to be revived, it would have to be done by an Act of the County Board of Legislators.

There is currently a disagreement between the County Executive and the County Board as to which branch of government has the authority to determine the future of Playland. Part of the discussion in this regard is whether the ownership and operation of an amusement park is and/or should be a county function.

Recommendation:

Bring to the full Commission for discussion as to whether the issue of creating a Parks District should be further explored and whether the Playland Commission should be reconstituted.

Sections of Charter for possible change include Laws of Westchester County Chapter 895, sections 277.131, 132, 133, 134.11, section 249.01, section 712.311, section 765.351, attached hereto.

3. Confirmation of Appointees

Problem:

The Charter does not address the issue that arises when the County Executive appoints individuals to Commissions, Committees, or positions and the County Board fails to confirm the appointment(s). What, if any, steps in the confirmation process should be added before appointees of the County Executive may serve on Committees and Commissions? When an individual serves prior to confirmation but after appointment, is that service “official”?

Discussion:

There have been instances in which appointments were made by the County Executive and the County Board failed to act on confirming the appointments. There is disagreement as to whether such appointees are properly appointed as well as whether

they may lawfully act in the capacity of the position to which they were appointed by the County Executive but not confirmed by the County Board.

Recommendation:

Bring to the full Commission for further study whether procedures should be established in the Charter to address this question, specifically whether there should be a time limit within which the County Executive must seek Board of Legislators confirmation of his/her appointments and whether there should be a time limit within which Board must confirm, or, in the event the Board fails to confirm, that the appointment(s) be deemed confirmed?

Sections of the Laws of Westchester County for possible change include section 110.21 attached hereto. There is nothing in Charter regarding procedures in confirmation process.

4. Inequitable Property Tax Rates

Should there be a countywide reassessment?

Problem: The large number of tax certiorari judgments against the County has resulted in a concomitantly large budget hole to fill.

Discussion: There has been much discussion about the need to create a level playing field for County homeowners whose property tax burdens are affected by the various localities' assessment policies and practices. From the County's perspective, the number of certiorari cases must be reduced. Many municipalities, among them Yorktown and Greenburgh, have stated that they would welcome a reassessment. The most equitable way to accomplish a local reassessment is to perform one countywide. Municipalities could assume a portion of the reassessment costs since it is expected they will gain revenue if reassessment is done.

Recommendation:

This critical issue, which was not thoroughly studied by this Focus group should be addressed by the full Commission.

Sections of Charter for possible change include Laws of Westchester County Chapters 122, 125 and 283 of the laws of Westchester County.

5. Establishment of a Permanent Charter Revision Commission

Problem: The time frame given for our Commission to complete its task was not long enough.

Discussion: The more deeply our Commission delved into the various sections of the Charter, the more aware we became of the importance and the enormity of our task. The more we learned, the more we realized there was to learn. The more we saw and began

to understand about the workings of county government and the rules that had to be followed, the more we knew there was to research. We found mandatory provisions of state and local law that made following the Charter a less precise science. If a permanent commission were established, they could develop layers of understanding and knowledge about the charter and workings of county government and their ongoing recommendations would be based on more experiential understanding and on more basic knowledge of the charter itself.

Recommendation: Bring to the full commission for further discussion and if the Commission agrees to recommend the establishment of a Permanent Charter Revision Commission. The function of this Commission should be clearly defined. The representation on the Commission should be addressed, with every effort made to appoint members who are representative of all of the diverse segments of our county.

6. Revisit 1988 Charter Revision Commission Recommendations

Some relevant 1988 Charter Revision Commission recommendations are already reflected in the Group's identified issues for possible inclusion in our recommendations. Among others, the following were called for by the 1988 Charter Revision Commission and were not accomplished. Accordingly, they are again being reviewed for inclusion in our recommendations.

- Review of Appointments provision
- Playland should be recognized as a function of Department of Parks, Recreation and Conservation, with an oversight committee

7. Review the Structure of County Government

During our deliberations we occasionally questioned whether a restructuring of Westchester County government could be accomplished in a manner that would provide for greater efficiency.

Recommendation: Do not bring to the entire commission since it is too large and too long a task for the Commission as constituted to adequately address at this time. Include the issue, however, in the report with the recommendation that it be addressed in the future.

8. Prepare a comprehensive list of all the services provided by County Government

Determine which services are mandated by another entity, which services are mandated by the county charter, and which are discretionary.

Problem: The Commission did not have a general blueprint of what all the functions of the County are and what services are provided. We did visit some facilities and we did hear from commissioners but that happened in a one by one fashion. Also, we can research each of the departments of county government on the county website. Yet, it is

important for the commission and for all of the citizens to have a full picture of all facets of county government and to also have a breakdown of which are mandated and by whom and which are discretionary.

Discussion: As the commission became familiarized with some of the functions of county government and the vast array of services the county provides, we realized that if we hadn't known about so many of these before our involvement in the commission, then there were surely many county residents who were also unaware.

There are those who would advocate for the dissolution of the county layer of government for the purported purpose of saving taxpayer dollars. Yet, as we saw the magnitude of services that are delivered at such reasonable cost, it became difficult to see how the same services could be provided at less cost if they were provided by another entity.

Recommendation: Obtain, if possible, and if not possible, then create one full, coordinated and comprehensive list of all the functions and services provided by our County Government.

Respectfully submitted,

Guy Parisi Jane Morgenstern Florence McCue

Attachments:

- Minutes of Charter and Codes Focus Group meetings;
- February 27, 2012 Template of letter to former County Attorneys inviting comment
- Letter to the Budget Department requesting information

APPENDIX A

Minutes of Meetings of the Charter and Code Focus Group

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**Meeting of the Charter and Codes Subcommittee of the Westchester County
Charter Revision Commission**

November 11, 2011 11 am

**595 West Hartsdale Ave.
White Plains, NY 10607
at the offices of the Westchester/Putnam Central Labor Body, AFL-CIO**

Attendance:

**Guy Parisi, Chair
Richard Wishnie
Stacey Dolgin-Kmetz, Esq. Counsel to the Board of Legislators
Jane Morgenstern
Anita Delgato, Esq.
Florence McCue, Esq., Vice Chair**

Excused:

Ray Belaire, Esq

None of the invited public was in attendance

A discussion was held concerning the need to define the scope of our future work. Should we become resources to the full committee as it relates to the language of the present Charter and Code? Should we do informational presentations at the beginning of full commission meetings? How would we address the updates in the methods of communication now available by virtue of increased available technology? How would we address any conflicts or redundancies or antiquated language in the charter?

We decided to draft a mission statement and goals that would inform our work for the future. The rest of the time was spent working on drafting these statements.

It was decided that Florence would type them up and submit them to the rest of the subcommittee before the next full commission meeting (on Nov. 21) in order that we would have the final document ready for that meeting.

Meeting adjourned at Noon. Next meeting date will be decided after the full Commission meeting on Nov. 21.

Respectfully submitted,

Florence McCue, Vice Chair

**Minutes of the Meeting of the Charter and Code Focus Group
of the Westchester County Charter Revision Commission**

January 14, 2012 10:00 am

595 West Hartsdale Ave.

White Plains, NY 10607

at the offices of the Westchester/Putnam Central Labor Body, AFL-CIO

Focus Group Attendance:

Guy Parisi, Focus Group Chair

Richard Wishnie, Commission Chair

Jane Morgenstern, Focus Group Member

Chris Crane, Staff

Florence McCue, Esq., Focus Group Vice-Chair

None of the invited public was in attendance.

The minutes of the last meeting on November 11, 2011 were reviewed and unanimously adopted as amended to correct the spelling of Anita Delgado's name.

Florence announced that Steve Mayo and David Menken expressed an interest in receiving communications from our Focus Group and they are now added to our membership list.

Both offered drafts of our mission statement were reviewed, amended and consolidated, and a motion was passed unanimously to adopt the amended version which is here attached.

The Focus Group decided it would be good to have our new consultant, Lester Steinman, address our group to assist us in further refining our task(s). Richard said that Les would be a good resource.

As our workload increases, we would welcome help from interns who probably could be located at local colleges. Florence will speak with Westchester Community College and Guy considered writing a letter to be sent to other schools.

We realized that much of our work will consist of assembling the recommendations of the other Focus Groups and suggesting places for inclusion in the present Charter and Code.

Our task, before the next meeting, is to review the recommendations of the former Charter Revision Commission for possible re-recommendation.

A list of the newly appointed committee chairs of the Board of Legislators was reviewed. We discussed having the committee chairs address our full Commission and/or the Focus Groups.

It was decided it would be best to refer to our Focus Group as the *Charter and Code Focus Group* since we would be focusing specifically only on one code, the Administrative Code of Westchester County.

Meeting adjourned at 11:10 am. Next meeting will be held at the County Office Building, 8th floor at Noon on February 16, 2012

Respectfully submitted,

Florence McCue
Vice-Chair

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

February 16, 2012

Members in Attendance: Guy Parisi, Florence McCue

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Special Counsel in Attendance: Lester Steinman

MINUTES

Focus Group Chairman Parisi called the meeting to order at Noon

Synopsis of the former Charter Revision Commission's recommendations was begun. However many questions concerning the meaning of the proposals were raised. Chris provided us with a full copy of the Commission's Report.

Chris also provided a list of the provisions in the current charter that he suggests are in possible need of revision.

It was agreed that in order to facilitate Vice-Chair McCue's ongoing request for a more comprehensive breakdown of the components of the county budget and the proposed costs for each, that she should out the request into writing and ask CRC Chairman Wishnie to forward it to the correct department.

The role of the county attorney was discussed especially the issue of representation when the County Executive and the board of legislators do not agree. Who does the county attorney represent in that instance? Les Steinman suggested that we obtain input from former county attorneys as to what they see as needs for change in the Charter and Code. Stacey, Guy and Les were able to identify particular individuals to invite. The invitees would be asked what issues were confronted by them during their tenure when working with the Charter and Code. They would also be asked whether the Board of Legislators should have their own attorney. The county attorney now advises the County Executive and the Board of Legislators. The question was whether there should be a separate counsel appointed to only advise the Board of Legislators. Guy told us that he used to be counsel to the Board and that during his service the county attorney drafted legislation and was the parliamentarian.

The process of appointment and confirmation is another area that needs revision.

The Budget Director's relationship to the Board of Legislators is another area in the Charter that needs more clarity.

The Playland section: who should be in charge? The Board could reestablish the Commission.

Evaluate how the county board is treated in the charter. Review the separation and **balance of powers.**

Chairman Parisi stated that the next meeting of the Focus Group will be on March 22, 2012 at Noon in the library on the 8th floor of the county office building.

Focus Group meeting adjourned at 1:00 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

March 21, 2012

Members in Attendance: Guy Parisi, Florence McCue, Herman Geist,
Richard Wishnie

County Staff in Attendance: Chris Crane, Melanie Montalto

Special Counsel in Attendance: Lester Steinman

Guest: Robert Meehan, Westchester County Attorney

MINUTES

Focus Group Chairman Parisi called the meeting to order at 12:15 pm

Mr. Meehan explained that the role of the county attorney is to research the law and interpret the charter and code and applicable laws.

If there are policy disputes, he does not get involved unless he is asked what laws must be followed in order to effect a policy change. His office will advise both the County Executive and the Board of Legislators how to accomplish their goals. If and when one branch of government wants to commence an action against the other, he declares a conflict and then each side would have to retain separate counsel.

When asked if he thought the Board of legislators should have their own attorneys he said no. **His real client is the county** and the county includes the County Executive and the Board of Legislators. He clarified that Stacy and Chris are not in the county attorney's office. Rather, they are hired as staff for the Board of Legislators. Although, it might be possible to assign the Board of legislators an attorney from the county attorney's office depending on the circumstances. Work for the Board has already been done by the county attorney's office.

We discussed the issue of getting to agreements in a way that will not cost the taxpayer for court actions of one branch of government against the other.

It was suggested that **mediation** might be a way to resolve differences between the County Executive and the Board of Legislators. We would have to recommend whether it would be advisory or binding.

One present issue facing the county is: When does a **commission appointment** by the County Executive become effective in the absence of an affirmative action by the Board of Legislators? Does the person serve while waiting for confirmation? Does

confirmation become automatic after a certain number of days if the board does not act?
This has to be made clearer in the Charter.

Also, the Charter calls for a **Playland Commission** when there has not been a commission in many years. The Charter states that one “shall take effect by action of the county Board”. Is this language outdated? Should it be removed from the Charter?

Mr. Meehan does not see any sections of the Charter as causing a problem for his office. Yes, he does not see the assessment legislation working at this time.

There is a penalty for late tax payments by municipalities. A 10% late fee is charged. The county sets the rate and the towns must collect late fees when appropriate.

Mr. Meehan also would like to see the Charter reflect the new tax levy.

Chairman Parisi stated that the next meeting of the Focus Group will be on April 4, 2012 at Noon in the library on the 8th floor of the county office building.

Focus Group meeting adjourned at 1:15 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES
April 4, 2012

Members in Attendance: Guy Parisi, Florence McCue, Herman Geist,

County Staff in Attendance: Chris Crane, Melanie Montalto, Stacey Dolgin-Kmetz

Special Counsel in Attendance: Lester Steinman

Guest: Sam Yasgur, Former Westchester County Attorney

MINUTES

Focus Group Chairman Parisi called the meeting to order at 12:10 pm

Mr. Yasgur explained that he often wondered if in fact the charter may be amended at the county level at all, since it was created by a state law. The doctrine of legislative equivalency states that the legislature cannot delegate it's authority to another entity. State law (the charter) shouldn't be able to be amended by anyone but the state.

Mr. Yasgur was formerly the County Attorney in /Westchester County and he is currently the County Attorney in Sullivan County. He was asked whether he thinks the Board of Legislators should have separate attorneys from the County Executive. Mr. Yasgur did not think so. He remembered acting as a neutral in any controversy involving both branches of government. He made it clear to all that he was the attorney for the county and that he had to interpret everything in a manner that was best for the county based on the law.

He stated that in Sullivan County there is no county executive, but rather a County Manager who is hired by the Board of Legislators. The county attorney's term is coterminous with the term of board members. In Westchester County the County Attorney serves at the pleasure of the County Executive.

In discussing possible charter revisions that could make for more smooth relations among branches of government, whether related to the appointment process or any other matters, he was sure that a change in the structure of government would make no difference at all. "The difference is the people", he said, "not the structure. Some people will find ways to work together for the good of the county and others will not." He felt that we could change the appointment process, but in the long run conflicts would still arise based on individuals' ability to work together.

Regarding ***Playland***, he felt that we should just look at where it fits in present day Westchester County.

Regarding the relationship between the Legislative and Executive branches, he remembered when there were formal teambuilding training that focused on county matters and forced all participants to look at the big picture. They used to call the BOL the “Big Board” and A & C the “Little Board”.

He used to be the attorney for the county in the same way as the Attorney General is the attorney for the state and the Corporation Counsel is the attorney for NYC.

The minutes of the previous meeting were approved as amended with a type-o correction changing the word “dies” to “does” at the top of page two.

Focus Group meeting adjourned at 1:10 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES
June 13, 2012

Members in Attendance: Guy Parisi, Jane Morgenstern, Richard Wishnie,
Florence McCue

County Staff in Attendance: Melanie Montalto, Stacey Dolgin-Kmetz

Special Counsel in Attendance: Lester Steinman

Guest: Charlene Indelicato, Former Westchester County
Attorney

Focus Group Chairman Parisi called the meeting to order at 12:05 pm

Ms. Indelicato, in addition to her prior service as the Westchester County Attorney, has now serves at the city manager of New Rochelle.

During her tenure as Westchester county attorney, the Board of Legislators at that time wanted a strict wall between the Co Ex's office and the BOL. She did not assign attorneys from her office to cover various departments because it was not her philosophy. When there is a conflict, the BOL may hire their own attorney(s) and they have a budget for that.

As county attorney, she had an ethical responsibility to both the BOL and the Administration. She could issue opinions to both the BOL and the Administration. It was best if the entire board came to her to make requests concerning drafting legislation, or to provide information rather than just one of the legislators or just the Chair of the legislature. It is also easier dealing with the county ex because he is only one person. The legislators might have positions or opinions different from each other.

The county attorney never has an easy relationship between the BOL and the county Executive. She did, however, act as a mediator between them during the budget process and would provide information and guidance to both when needed. Unfortunately, at the present time when the county attorney says, "no" to the BOL there is no discussion or explanation.

Ms. Indelicato was asked if there might be an institutional way (if the charter were amended) to prevent conflict between departments of government. She said no, that we presently have sections that require approval of the Board. The BOL can 2/3 vote to say "No" if the County ex wants to fire a director (for example the budget director). Notice and cause are required to remove. The term of commissioners is coterminous with the county Executive's term.

She was asked about the Appointment and Confirmation process, specifically, could committee members serve after being appointed by the County Ex but before the BOL confirms? She said that some areas of the charter are “very hazy”. The Focus group will follow up on this issue. We inquired as to where she thought the charter could be changed so it would make more sense. She did not have a response at the time but promised to get back to us.

When asked what mechanism in the charter might exist for the BOL to enforce laws they passed, she said all they could do was to sue (as is happening now). It is the BOL who appropriates money to do something, the County Executive does not.

Is the county attorney required to provide creative ways of solving disputes as part of his/her job description? No, that is not a requirement. However, the ethical responsibility of the County attorney is to give ways of solving disputes if they are possible. The county attorney is the attorney for the county Executive, for the day to day functions and questions. For the Board, the county attorney assists with information and guidance on policy and appropriations.

Regarding *Playland* There is a Playland Commission in the charter but it appears to be defunct. There are lots of things in the charter that don’t exist, so the BOL would have to revive it/them through legislation.

Ms. Indelicato was asked if she thought the BOL and the County Ex should be required to mediate their differences. A discussion among the attendees concluded that this was not feasible, nor an idea that could ensure success. What could be done? Ms. I said it had to be put into the court of public opinion or given to the courts. The BOL should be able to call in departments heads to discuss things. “If they can’t, it’s ludicrous”.

Problem: Legislature legislates and appropriates funding, but the County Ex. says, “No, I will not enforce this”.

A few suggestions were discussed and none received the consensus of the group. It was determined, however, that there needs to be a way designed to avoid complete deadlock in the future.

Problem: Concerning the capital budget program, there are no deadlines or time tables built into the implementation.

Ms. Indelicato was asked, should the BOL be able to initiate budget amendments to add a capital project, et al? She thought no, since they already have the authority to stop budget transfers and it would take away too much from the power of the executive.

Focus Group meeting adjourned at 1:05 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES
July 17, 2012

Members in Attendance: Guy Parisi, Richard Wishnie, Florence McCue

County Staff in Attendance: Chris Crane

Guest: Joe Stout, Former Parks Commissioner and present
Executive Director of Friends of Westchester County
Parks

Location: Westchester County Center

Focus Group Chairman Parisi called the meeting to order at 12:00 pm

The purpose of the meeting was to follow up on ideas proposed by Mr. Stout at our last full CRC meeting on June 28, 2012.

June 28, 2012 presentation by Mr. Stout:

The idea of the establishment of a parks district (similar to our county water and sewer district) was discussed. It would create a different method of funding. There would be a level, steady tax, a dedicated tax, under the county taxing authority. No park would be eliminated. There are now 28 CSEA employees left at Playland and their positions would be honored. For budget year 2012, \$34 million is earmarked in the county budget for parks and recreation and is used to maintain and service and provide salaries and benefits for employees for 50 parks without Playland. When Playland is included, income of \$183 is generated and so, we get a return of almost \$5 for each \$1 spent. \$52 is the operating budget and \$19 mil is Misc (debt service and employee benefits) for a total of \$71 million.

Today we obtained further information:

Mr. Stout said it would be beneficial to put Playland back into the County parks grouping. He thinks a parks Authority

GP: Parks are located in some districts within the county and not others. Would the “new” system of funding mean that only the towns where parks were located would be taxed?

JS: No, because all county residents could use.

RW: So, parks should be looked at differently?

JS: Yes, because other departments don’t generate fees and we receive \$183 million a year through the county parks operations. They also generate over 1,000 private sector jobs. And, there would be advantages in terms of obtaining outside funding from grants and donors.

GP: If it were a district, the \$ raised would go into the district fund.

JS: Being different from the general fund would be the biggest advantage.

RW: So, if parks generated a surplus, it would not go into the general fund.

JS: They would be enterprise funds---when a surplus, then \$ put aside for capital or charge off for Administrative fees.

JS: The county tax bill would show a breakdown of, Water, Sewer, county taxes, and Parks.

JS: The sore thumb is the amusement park. There are those who say, "Government should not run an amusement park".

Parks budget costs \$35 a year per resident, it is the least expensive way of operating it.

The Playland Commission has gone out of business.

The Parks Dept budget is \$52 mil in 2012;

\$52 mil operating budget

\$19 mil is county's debt service and employee benefits
(except for the County Center, Ice Casino, Hudson
Hills Golf Course and the amusement park)

Tax levy is \$33 million a year.

Is there any advantage to the taxpayer? No

JS: The advantage is to separate and preserve the asset. We could seek grants and legacies by shining a light on it...and for every \$1 invested, \$5 comes back.

CC: With a "special district" can charge based on property.

JS: No Enterprise Fund, No Public Benefit Corp. In Westchester County 70% of the operating budget comes from Fees and 30% from taxes. Elsewhere it is usually reversed (30% fees and 70% taxes).

JS: In 1978 the "Friends of the Parks" was created. Herman Geist was **the** "friend". Then they sent kids to two camps. It was established to raise money for the parks and to get donations. They got \$32,000 in 2003 and get \$2 million now. It is a not for profit. They run a camp for DSS foster care kids and those on public assistance. They have 60 kids in their sibling camp in the county---for kids who are separated from their siblings to go to camp together. There is a board of 25 and they are concerned that the park land will be decreased. It is a "green issue" for them.

JS: This plan could save money because of the potential for privatization.

FMc: I have concerns about the possible disappearance of union jobs. The quality of work can go down. JS: In some cases yes and in some, no. There could be a financial benefit to the county if grants and donations were increased for the parks.

Focus Group meeting adjourned at 1:10 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

October 3, 2012

Members in Attendance: Guy Parisi,
 Florence McCue

County Staff in Attendance: Chris Crane

Focus Group **Chairman Parisi** called the meeting to order at 12:00 pm

The minutes of the June 13th, 2012 and the July 17th, 2012 meetings of the Focus Group were adopted.

We discussed how far we were toward accomplishing our mission and we reviewed the steps we planned to take in order to prepare the focus group preliminary report.

Chris reminded us that the Charter was available in 2012 Adobe pdf format.

We discussed summarizing our meetings with former county attorneys and focusing on their responses to the same three guiding questions.

We discussed where/what we might offer to the full commission for open discussion regarding *Playland*, a proposed County Parks District, and our finding that the *Playland* Commission called for in the charter has not met or even had identified members in many years.

Chris reminded us that each focus group is to submit a preliminary report by end November/beginning December

Attorneys have been assigned to each focus group to assist with the reports. **Les** will work with County and Local Government Relationships, and Executive/Legislative. **Stacy** will work with Budget and Finance and with Charter and Codes. **Chris** and **Richard** will assist where needed.

Chris suggested we review the 1988 Charter Revision commission final report to find where recommendations of present focus groups might line up in a manner similar to that submitted in 1988. He suggested we add comments in writing in the manner they were submitted in 1988, and provide code section numbers.

The Format of our preliminary report should be:

- a) Issues
- b) Discussion
- c) Recommendations

It was suggested we might get some further information on Playland from the former mayor of Rye, NY who is happy to help.

Florence agreed to have the draft of the preliminary report done by the end of November.

We discussed ideas and pros and cons of proposing a “Parks District”:

- Presently the county law does not authorize a Parks District.
- The boundaries of a parks district would be in discussion. Does it benefit the entire county? Do some parks benefit the entire county and others don't?
- By creating a dedicated fund inter-fund transfers would not be allowed when surpluses are present and needed in other areas of the budget.
- Now the Districts are Water/Refuse/Sewer. Would we even be able to create a true Parks district?
- Taxpayers and voters might see this as a “new tax” at a time when the economy is not ideal.
- Taking away the county Ex and the BOL's ability to control funds would create problems.
- Should we encourage the restarting of the Playland Commission that is already called for in the Charter?
- What about taxing the Tiki Bar? The City of Rye already does tax it. Restaurants serve a public function, just like golf courses.
- What about the “Legacy Program”?
- “Friends of the Parks” already exists.
- The BOL and Co. Ex want tourism.
- The BOL would want to retain authority to vote on various proposals.

** A further benefit analysis needs to be done before a decision on a proposal can be made.

Focus Group meeting adjourned at 1:00 pm.

Respectfully submitted,

Florence McCue

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
CHARTER AND CODE FOCUS GROUP MINUTES

November 15, 2012

Members in Attendance: Florence McCue
Jane Morgenstern

County Staff in Attendance: Stacey Dolgin-Kmetz

Focus Group **Vice Chair McCue** called the meeting to order at 10:30 am at 595 West Hartsdale Ave., White Plains, NY 10607.

We began planning the layout and the outline for the focus group report.

We reviewed our mission statement and realized on how far we had come toward attaining our original goals. Some of our goals had been too broad and others had been too difficult to for us to attain. We now know that Stacey and Chris are already knowledgeable about the language and the function and the nuances of the charter and that they have been and will continue to be an invaluable resource as we move forward in our focus group tasks. We are fortunate to have Stacey as our facilitator as we prepare the initial report.

In addition to our overview of the charter, our focus group has worked on some charter issues that have surfaced as requiring further study and possible inclusion in a list of proposed charter revisions.

1. **Parks District** The possibility of the establishment of a Parks District that would include Playland. Should the District be established? Should Playland just be put back into the Parks designation? Should the Playland Commission be reestablished? Should it continue to be under the Board of Legislators' authority? How much should the County Executive accomplish on his own with regard to the proposals for redesign of Playland. Now that Playland has been ravaged by *Hurricane Sandy*, maybe we should wait until we see how much FEMA will be taking care of... What about the skating rink and the leagues that use it? Our informal conversations with elected officials have netted many suggestions big and small. One suggestion was that no matter what becomes of the structure and ownership of Playland, the beach dog park must remain. With Westchester County Medical Center, we just contract with them to provide some services. Would that be a viable alternative for Playland?
2. **Confirmation of Appointments** The process for the Confirmation of Appointments. As of now, the charter provides that the County Ex appoints and the Board of Legislators confirms. Yet, there are more steps in the process to be addressed. Should appointees act in absence of confirmation? Should

there be a time limit in which to confirm or deny? Should there be set terms for all appointees or just some?

3. **Relationship Between the County Executive and the Board of Legislators**
We discussed with former county attorneys the somewhat rocky present relationship between the executive branch and the legislative branch of county government and their suggestions for ameliorating this. We will address those suggestions in our report.
4. **Former Commission's Recommendations** We have been reviewing the Charter and Codes-type recommendations made by the former Charter Revision Commission of 1988 and whether they should be resubmitted.
5. **The Role of the County Attorney** Although each former county attorney we interviewed felt that the County Attorney is the attorney for the county and not for only one branch of county government, our focus group might want to recommend providing for separate attorneys for each branch of government. Since there have been time when conflicts arise that make it impossible for the county attorney to adequately advise everyone.
6. Our recommendations will be submitted to the full commission for discussion and possible inclusion in the final report.

Originally, Florence had agreed to have the draft of the preliminary report done by the end of this month, but Stacey thought that it was not due until the end of December. Once this is checked, Florence will have the report submitted when it is due. If there are any dissenting opinions among our focus group members, they would have the option of writing a dissenting report.

Focus Group meeting adjourned at 11:30 am.

Respectfully submitted,

Florence McCue

RICHARD G. WISHNIE
Briarcliff Manor
CHAIRMAN

RAYMOND W. BELAIR
Bronxville

JEFFREY M. BINDER
Armonk

ANITA DELGADO, ESQ.
White Plains

ALFRED A. GATTA
White Plains

HERMAN GEIST
Armonk

JULIA P. KILLIAN
Rye

DERICKSON K. LAWRENCE
Mount Vernon

JOHN W. MATTIS
Montrose

STEVE MAYO
New Rochelle

ANNE McANDREWS
Larchmont

FLORENCE McCUE
Elmsford

PAUL MEISSNER
Yonkers

DAVID A. MENKEN
Bedford

JANE MORGENSTERN
Dobbs Ferry

GUY T. PARISI, ESQ.
Rye

VINCENZA A. RESTIANO
Yonkers

RANDY SELLIER
Pelham Manor

MATTHEW P. THOMAS
Rye

DR. RONALD VOLINO
Yonkers

PAUL WINDELS III
Scarsdale

SAM ZHERKA
Katonah

GARY J. ZUCKERMAN
Rye Brook

February 27, 2012

Mr. Robert Meehan
County Attorney
148 Martine Avenue
White Plains, NY 10601

Dear Mr. Meehan:

As you may be aware, a Charter Revision Commission has been established for Westchester County with the charge to make suggested changes to the Charter and Administrative Code that will help the County operate more efficiently and effectively.

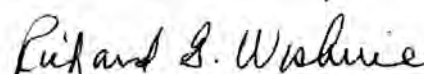
On behalf of the Charter and Codes Focus Group of the Commission, I would like to invite you to speak at one of our group meetings about your experience serving as the County Attorney. In addition, a key objective for the group is researching conflicts, inconsistencies, loopholes and ambiguities that may exist in the Charter and Code.

Some examples already suggested include the following:

- The appointment/confirmation process
- The status of the Playland Commission
- The Charter/Code's inconsistency when using the word "board". For example, there is some discrepancy as to when "board" means the County Board of Legislators and whether the word "board" refers to boards and commissions exclusive of the Board of Legislators.

Your input and insights on these and any other matters relating to your knowledge and experience with the Westchester County Charter and Administrative Code would certainly be of great assistance to the group. The Focus Group meets monthly and can be flexible with your schedule and location if necessary. Please contact the Charter Revision Commission Coordinator Melanie Montalto to discuss this further and to set up time for you to meet with the Focus Group. She can be reached at (914) 995-8620 or by email at MelanieM@westchesterlegislators.com

Thank you for your time and assistance to the Commission.
Sincerely,



Richard G. Wishnie
Chair

APPENDIX B

Applicable sections of County Charter and Administrative Code

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Chapter 158. DEPARTMENT OF LAW

Sec. 158.01. Appointment; qualifications.

There shall be a Department of Law, the head of which shall be the County Attorney, appointed by the County Executive with the approval of the County Board. He shall be an attorney admitted to practice in this state at least ten (10) years prior to his appointment. [§ 58 of the Laws of 1937, Ch. 617]

Sec. 158.11. Powers and duties.

[§ 59 of the Laws of 1937, Ch. 617; amended by Laws of 1939, Ch. 735; Laws of 1943, Ch. 710; Laws of 1951, Ch. 440; L.L. No. 9-1970; L.L. No. 6-1974; L.L. No. 12-1979; L.L. No. 16-1983; amended by L.L. No. 6-2003]

1. The County Attorney of the County of Westchester when appointed as provided in section 158.01 of this act shall have charge of and conduct all of the civil law business of the County of Westchester and its departments. He shall have charge of and conduct all legal proceedings instituted for and on behalf of or against the county and shall prepare and approve as to form, all leases, deeds and contracts of the county which are to be executed by the county executive or on behalf of the county board, also all contract bonds and/or undertakings executed to the county, and certify that the same are in proper form and properly executed. In addition, the County Attorney shall also have the authority to present criminal proceedings relating to violations of probation to the Courts in conjunction with the Westchester County Probation Department.
2. He shall be legal advisor to the County Board and to each and every board, body, commission or officer of the County of Westchester and to each and every employee of the County of Westchester as may be required by section 297.31 of the Westchester County Administrative Code. It shall be his duty to furnish to such county board, body, commission officer or employee all such advice and legal assistance as counsel and attorney in and out of court as may be required by them, or either of them. No such officer, employee, board, body, commission or department of the county shall have or employ any attorney or counsel at the expense of the county unless specifically authorized to do so by the County Board.
3. The County Attorney shall not have the power to institute any proceedings on behalf of the county, or any of its officers, unless directed to do so by the County Board or an officer, board, commission or body having power or authority under statute to direct the starting of any such action or proceeding, except a proceeding for a money judgment only where the amount involved does not exceed ten thousand dollars (\$10,000.00) exclusive of costs, or except as provided in subsection 4. hereof.
4. When an accident, occurrence or condition arises whereby circumstances affecting county buildings or property or the life, health, safety or property of the inhabitants of the county require immediate court action, which cannot await a stated or special

meeting of the County Board, the County Executive may direct the County Attorney to apply for injunctive or other appropriate relief or remedy on behalf of the county to protect its rights, interests, property and privileges. When the County Executive so directs the County Attorney to commence an action or proceeding, he shall at the same time file a report and notification thereof with the County Board.

5. Except as otherwise provided in this subdivision, the county attorney shall not be empowered to compromise, settle or adjust any rights, claims, demands or causes of action in favor of or against the County of Westchester without the previous authority of the county board or of the board, body, commission or office authorized or empowered by statute to direct or consent to such compromise, settlement or adjustment. He shall not permit, offer or confess judgment against the county or accept any offer or judgment in favor of the county for less than the amount claimed by the county, unless previously duly authorized to do so by the County Board. Notwithstanding the foregoing, the County Attorney shall be empowered to compromise, settle, or adjust rights, claims, demands or causes of action against the county for an amount not to exceed ten thousand dollars (\$10,000.00) exclusive of interest and costs without the need for authorization from the County Board or of any other board, body, commission or office. In addition, the County Attorney with the approval of the County Board of Acquisition and Contract may compromise, settle or adjust rights, claims, demands or causes of action against the county for personal injury or property damage for an amount not to exceed seventy-five thousand dollars (\$75,000.00) exclusive of interests and costs. In no event shall any inhibition contained in this section operate to limit or abridge the discretion of the County Attorney in regard to the proper conduct of the trial or appeal of any proceedings or action at law, or to deprive said County Attorney of the powers or privileges ordinarily exercised in the course of litigation by attorneys at law when acting for private clients.
6. The deputies in the department shall act generally for and in the place of the County Attorney in reference to the particular branch of work assigned to them. The County Attorney shall make an annual report at the close of each fiscal year to the County Board covering generally the work of his office, and showing the status of all actions and proceedings then pending.

Sec. 107.81. Employees.

The County Board shall appoint a clerk of the board. The clerk shall serve at the pleasure of the board. Within the appropriations available therefore, the board shall appoint other necessary board employees. In the temporary absence or temporary disability of the clerk, the Chairman of the board shall designate in writing one of the other board employees to serve as acting clerk to perform the duties of the clerk of the board, which service shall be rendered at no further or additional compensation. The clerk shall keep the calendar and records of the board in such form and manner as it may prescribe.

Chapter 895. PLAYLAND COMMISSION ACT

Sec. 895.01. Playland Commission Act as adopted by Chapter 601 of the Laws of 1983.

AN ACT authorizing the creation of the Westchester County Playland Commission and providing for its powers and duties and repealing chapter **826** of the laws of 1940 relating thereto *Editor's Note: Chapter 826 of the Laws of 1940 appeared in former Ch. 895.*

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This title may be cited as the "Playland Commission Act."

§ 2. Definitions.

As used or referred to in this act, unless a different meaning clearly appears from the context:

1. The term "Playland" shall mean the recreation park situated in the village of Rye, Westchester County, New York, including all lands and all bathing, amusement, recreation and other facilities owned by the County of Westchester, acquired by it under the designation Rye Island park.
2. The term "commission" shall mean the corporation created by section three hereof.
3. The term "board" shall mean the members of the commission.
4. The term "county" shall mean the county of Westchester.
5. The term "county executive" shall mean the executive head of Westchester county.
6. The term "commissioner of finance" shall mean the commissioner of finance in and for the county of Westchester.
7. The term "revenues" shall mean moneys received or to be received from the maintenance and operation of Playland.
8. The term "county legislature" shall mean the county legislature of Westchester county, as the said governing body now exists or may hereafter be constituted.
9. The words of the masculine gender include the feminine and the neuter and may refer to a corporation or a board or other body or assemblage

of persons.

10. The term "person" shall include a corporation or association.
11. Words in the singular number include the plural and in the plural number include the singular.

§ 3. Westchester County Playland Commission.

A corporation known as the "Westchester County Playland Commission" is hereby created for the purpose and is charged with the duty of the construction, reconstruction, control, maintenance and operation of "Playland". Such commission shall be a body corporate and politic constituting a public benefit corporation. It shall consist of nine members to be appointed as follows: (a) five members shall be appointed by the county executive of the county of Westchester, subject to confirmation by the county legislature; the term of office of the first members so appointed shall be one, two, three, four and five years respectively and expiring on the 31st day of December in the last year of the term for which they are appointed and thereafter the terms of office of the respective members so appointed shall be five years, subject nevertheless to the termination of the corporate existence of such commission; and (b) four members shall be appointed by the county legislature; the terms of office of the first members so appointed shall be two, three, four and five years respectively and expiring on the 31st day of December in the last year of the terms for which they are appointed and thereafter the terms of office of the respective members so appointed shall be five years, subject nevertheless to the termination of the corporate existence of such commission. When a person is appointed to a vacancy occurring before the term of office in which the vacancy occurs shall have been completed, such person so appointed shall hold his office for the remainder of the said term not completed by his predecessor and until another is appointed in his place. The members of the commission hereby created shall be entitled to no compensation for their services but shall be entitled to reimbursement for all expenses incurred or to be incurred in connection with the carrying out of the purposes of this act. The powers of the commission shall be vested in and exercised by a majority of the members thereof hereby created but in no event by less than five members thereof. Such commission may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper. No officer, member or employee of the corporation shall receive, or be lawfully entitled to receive, any pecuniary profit from the erection, construction, reconstruction, control, maintenance and operation thereof except reasonable compensation for services rendered in effecting one or more of its purposes. Such commission and its corporate existence shall terminate by a resolution of the county legislature of the county of Westchester, or such other board or body as may be the governing authority of such county, duly adopted by a

§ 3. Westchester County Playland Commission.

majority vote of the members thereof. In the event of such termination, the same shall take effect on January first following the adoption of such resolution. It is hereby determined and declared that the commission and the carrying out of its powers and purposes are in all respects for the benefit of the people of the county of Westchester and the state of New York, for the improvement of their health, welfare, education, instruction, interest, pleasure, recreation, athletics or amusement, and that the said purposes are public purposes, and that the commission is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

§ 4. Powers of the commission.

The commission shall have the power:

1. To sue and be sued.
2. To have a seal and alter the same at pleasure.
3. To acquire, lease, hold and dispose of personal property or any interest therein for its corporate purposes.
4. To adopt by-laws for the management and regulation of its affairs.
5. To appoint officers, agents, servants and employees and fix their compensation, subject, however, to the provisions of the civil service law which shall apply to the commission as a municipal corporation other than a city, and the provisions of the Westchester county charter, being chapter 617 of the laws of 1937.
6. To make contracts and incur debts and execute all instruments necessary or convenient.
7. By contract or contracts, lease or leases, concession or concessions or by its own employees, to conduct and operate such recreation park, together with such incidental structures and facilities as may be necessary, provided that no contract, lease or concession shall be for a longer period than five years from the date when it is made.
8. To erect, construct, reconstruct, maintain and operate facilities for the public not inconsistent with the use of Playland as a recreation park, and contract therefor.
9. To lease and/or grant concessions for the right to erect, construct, reconstruct, maintain, operate and/or use such facilities on such terms

and under such conditions as it shall determine.

10. To operate bath houses, bathing beaches, swimming pools, recreation facilities and parking spaces and to regulate and prescribe under proper control the use thereof.
11. To employ, and at pleasure discharge, such manager or managers, and such clerical assistants, employees, services and labor as may be deemed necessary for the accomplishing of the purposes of this act.
12. To fix, impose and collect admission fees, bathing fees, recreation fees, parking fees, rentals, concession and license fees relative to all business which may be conducted by the commission, or in any way involving the use of its facilities, and make rules and regulations which shall govern all such business and facilities and all persons and vehicles coming upon the property and/or into the park, and provide and enforce penalties and liquidated damages relative to breaches of such rules and regulations and any contracts, leases or concessions entered into.
13. To rent, buy, sell and deal in goods, wares and merchandise in any way connected with the park and facilities furnished, or to lease or grant concessions for the right to exercise such powers.
14. To give instruction in sports, games, recreations, athletics and amusements, and to lease and/or grant concessions for the right to exercise such powers.
15. To maintain and operate restaurants, cafes and other places for the serving of food and refreshments, and to lease and/or grant concessions for the right to exercise such powers.
16. To lease and/or grant concessions for the right to erect, construct, reconstruct and/or use any facilities in the park on such terms as it shall determine.
17. With the consent of any commission, board or department of the county of Westchester, and the approval of the county executive, the commission may at its election use any agents, servants, employees and facilities of such commission, board or department, paying its proper proportion of the compensation or cost.
18. To do all things necessary or convenient to carry out the purposes, duties and powers expressly given in this or any other section of this act.
19. All acts shall be by resolution adopted by not less than a majority of the members of the commission present but in no event by less than five

members thereof. A minute book shall be kept in which all such resolutions shall be recorded and such minutes shall be signed by the secretary of the commission and kept available at all times to the county legislature or any committee of such governing body and to the county executive or any of his authorized representatives.

20. The county attorney of Westchester county shall be the legal adviser of the commission.
21. No commission, department, board, officer or agency of the county of Westchester shall have any jurisdiction, control or power over any of the acts or things done by the commission, pursuant to this act, except the county legislature, the state civil service commission, and except as herein otherwise provided.

§ 5. Officers of the commission.

The chairman of the commission shall be appointed by the county executive. There shall also be a vice-chairman and treasurer who shall be appointed by the commission. The commission shall appoint a secretary who need not be a member of the commission and may also appoint such officers and employees as it may require for the performance of its duties and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The treasurer shall execute a bond conditioned upon the faithful performance of the obligation of his office, the amount and sufficiency of which shall be approved by the commission and the commissioner of finance and paid by the commission.

§ 6. Rules and regulations.

The erection, construction, reconstruction, control, maintenance and operation of Playland by the Westchester county park commission under the provisions of chapter 292 of the laws of 1922 and by the Playland authority under the provisions of chapter **826** of the laws of 1940 and the acts amendatory thereof and supplemental thereto are hereby in all respects delegated to the commission created under this act, and all of the provisions of said chapter 292 of the laws of 1922 and chapter **826** of the laws of 1940 and the acts amendatory thereof and supplemental thereto shall in all respects apply under this act except as the same may be inconsistent herewith in which event the provisions of this act shall apply. The commission shall, notwithstanding the provisions of any general, special or local law to the contrary, have the power to adopt and enforce ordinances, rules and regulations governing the use of Playland under the provisions of this act, which ordinances, rules and regulations shall be subject to the approval of the county legislature. The ordinances, rules and regulations established by the Westchester county park commission or the Playland authority shall,

§ 6. Rules and regulations.

except as the same may be inconsistent herewith or otherwise provided herein, apply to Playland until amended, supplemented or superseded by ordinances, rules and/or regulations duly adopted by the commission as aforesaid.

§ 7. Contracts.

All contracts, or orders, for work and/or material or supplies performed or furnished shall be awarded by the commission pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than \$5,000.00 shall be awarded only after bids or proposals therefor have been received pursuant to article five-A of the general municipal law. *General Municipal Law § 100 et seq.* No bid shall be accepted from, or any contracts awarded to any person or corporation who is in arrears to the commission, the Westchester county park commission or the county of Westchester upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation to the commission, the park commission or the county. Every contract involving an expenditure of more than \$5,000.00 when made and entered into as herein provided for shall be executed in triplicate, one copy of which shall be held by the commission, one copy of which shall be filed with the commissioner of finance and one copy of which shall be delivered to the contractor.

§ 8. Transfer of officers and employees.

Any municipal or county officer or employee under civil service, selected by the commission may, with the consent of the commission, board or department by which he or she has been employed, and the county executive, be transferred to the commission and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the commission. The salary or compensation of any such officer or employee shall after such transfer be paid by the commission. But notwithstanding the provisions of this act, any such officer or employee so transferred to the commission, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the commission, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officer or employee, shall be paid by the commission; and all such officers and employees who have been appointed to positions in the service of the county under the rules and classifications of the state civil service commission shall have the same status with respect thereto after transferred to the commission as they had under their original

§ 8. Transfer of officers and employees.

appointments. The appointment and promotion of all employees of the commission shall be made in accordance with the provisions of the civil service law of the state.

§ 9. Moneys of the commission.

1. All moneys of the commission shall be deposited in the name of the commission in such bank or banks, trust company or trust companies as shall be selected by the commissioner of finance from the list of banks and trust companies as have been designated by the county legislature for the deposit of county funds and such funds so deposited are hereby declared to be county funds. Daily reports of deposits and withdrawals shall be rendered to the commissioner of finance. The moneys in such accounts shall be paid out on the check of the commission, signed and countersigned by such officers, agents and employees as it shall by resolution designate and who shall be bonded in amounts stipulated by the commissioner of finance. At the close of each month, the commission shall render to the commissioner of finance a financial statement for such month accompanied by a reconciled statement of bank balances. On the last working day of each year, the commission shall transmit to the commissioner of finance the total cash on hand representing the difference between receipts and disbursements for the preceding year.
2. The commission shall have power to arrange temporary financing prior to the receipt of revenues sufficient to meet current costs or expenses by obtaining such advances from the commissioner of finance as may be authorized by the county legislature, or by bank loans as hereinafter provided. Such advances, or loans, shall be repaid as soon as there shall be sufficient excess of cash over current obligations to permit such payment.
3. The commission shall have the power to withdraw from bank accounts and keep on hand such amounts of cash as may be required to make change and to make petty cash disbursements. Such cash on hand and such disbursements shall be reported to the commissioner of finance at the close of each month.
4. The commission shall have the power to receive and deposit in special accounts moneys from concessionaires, lessees or others and to pay on the check of the commission in the manner previously specified such amounts as are payable under the terms of contracts, leases, concessions or other agreements.
5. The commissioner of finance and his legally authorized representatives

and the legally authorized representatives of the county legislature, or the county executive, are hereby authorized and empowered, from time to time, to examine the accounts and books of the commission, including receipts and disbursements, contracts, leases, concessions and any and all other matters relating to its financial standing.

6. The county legislature may authorize, on terms and conditions to be determined by it, advances of moneys to the commission for the maintenance and operation by the commission of Playland.
7. Any bank or trust company in which moneys of the commission are deposited shall pay interest on the daily balances at the same rate which such bank or trust company would be required to pay on county deposits. All of the provisions of the county law, relating to undertakings and deposits of securities and the right of any bank or trust company to deposit collateral, shall apply to the county funds deposited by the commission in accordance with the terms of this act, and any such undertaking so given and securities deposited shall be given to and the securities deposited with the commissioner of finance of the county of Westchester.
8. Not later than the first day of October in each year the commission shall present to the county executive and the county budget director an estimate of its revenues and its costs and expenses for the next calendar year, accompanied by schedules of estimated monthly cash receipts and disbursements, showing the amount of cash required to finance the park while revenues are inadequate for that purpose. The county executive shall include such estimates and his recommendations in respect thereto in the proposed county budget for the ensuing year and when the county legislature shall adopt the county budget for such year, it shall fix the maximum amount which the commission shall be authorized to expend in such year for the park, costs and expenses, and shall either authorize the commissioner of finance to advance a specified amount to the commission for temporary financing, or shall authorize the commission to arrange such temporary financing from bank loans.

§ 10. Actions.

No civil action shall be maintained for damages or injuries to person or property or any invasion of personal or property rights of any name or nature whatsoever, whether casual or continuing, arising at law or in equity, or by the creation or maintenance of any nuisance alleged to have been caused in whole or in part by or because of any act, omission of duty, wrongful act, fault, neglect, misfeasance or negligence on the part of the commission, of any member, officer, agent, servant or employee thereof, unless same is maintained in accordance with the provisions of article four or *Editor's Note*:

§ 10. Actions.

So in original. Probably should read "of." the general municipal law. General Municipal Law § 50 et seq. Nothing herein contained, however, shall be held or construed to revive any claim or cause of action now barred by any existing requirement, or statute of limitations, nor to waive any existing limitation now applicable to any claim or cause of action against the Playland commission, the park commission, or the county, or to create any liability on the Playland commission, the park commission, or the county which does not exist by reason of the provisions of any general or special law. The place of trial of all actions or proceedings against the commission, the park commission, or the county, or any member, officer, agent, servant or employee thereof shall be the county of Westchester.

§ 11. Limitation of liability.

Neither the members of the commission, or any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance and/or operation of the park and/or from carrying out any of the powers expressly given in this act.

§ 12. Annual report.

The commission shall submit to the county executive and the county legislature, on or before the first day of February in each year, a detailed report setting forth the operations and fiscal transactions of the commission during the preceding calendar year, the financial condition of such commission and a statement of all receipts and expenditures during such year.

§ 13. Title not affected if in part unconstitutional or ineffective.

If any section, clause or provision of this act shall be held unconstitutional, or be ineffective in whole or in part, to the extent that it is not unconstitutional, or ineffective, it shall be valid and effective and no other section, clause or provision shall, on account thereof be deemed invalid or ineffective.

§ 14. Inconsistent provisions in other acts superseded.

In so far as the provisions of this act are inconsistent with the provisions of any other act, general, special or local, the provisions of this act shall be controlling.

§ 15. Officers and employees not to be interested in transactions.

It shall be a misdemeanor for any of the members of the commission, or any officer, agent, servant or employee thereof, employed or appointed by them, to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract which the commission is empowered by this act to make.

§ 16. Chapter 826 of the laws of 1940 is REPEALED.

§ 17. This act shall take effect immediately and the commission created hereby shall come into existence upon the taking effect of an act of the Westchester county legislature adopting the provisions hereof.

Article VII. Westchester County Playland Park Commission

Sec. 277.131. Board established.

[Added as § 277.131 by L.L. No. 12-1980]

1. There shall be a Westchester County Playland Park Commission consisting of seven members, to include:
 - a. Four members who shall be residents of the county to be appointed by the County Executive subject to confirmation by the County Board;
 - b. Three members who shall be residents of the county to be appointed by the Chairman of the County Board subject to confirmation by the County Board. One of these members shall also be a resident of the City of Rye.
2. The members of the Westchester County Playland Park Commission shall, at the first meeting of each year or when a vacancy exists, elect a Chair-person.
3. The members of the commission shall receive no compensation for services but shall be entitled to reimbursement for their reasonable and necessary expenses incurred in the performance of their duties within any appropriation made for such purpose.

Sec. 277.132. Powers and duties of commission.

[Added as § 277.141 by L.L. No. 12-1980]

1. Hold meetings of its members at such time and place as the members of the commission shall determine;
2. Render advisory assistance to the operator of Playland Park, the Executive and Legislative branches of County government with respect to the enhancement (master) planning process;
3. Recommend to the executive and legislative branches of county government the method of selection of organization(s) to work on the enhancement (master) plan of Playland Park. Any organization that is awarded a consulting contract to work on the enhancement (master) plan will not be allowed to implement the aforesaid enhancement (master) plan. The operator will participate with consultant(s) in the development of the physical enhancement (master) plan including the provision of all relevant data collected by the operator during the assessment phase.

Sec. 277.133. Effective date.

[Added as § 277.151 by L.L. No. 12-1980]

This local law shall take effect immediately and shall expire on December 31, 1982, or, upon the implementation of a long-term management agreement between the county and the selected operators of Playland Park, however, subject to any further action by the Board of Legislators.

Ch 134. DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

Sec. 134.11. Definitions.

[Added as § 50-b by the Laws of 1961, Ch. 679]

As used in this article, unless another meaning is clearly indicated by the text:

1. The term "park" or "parks" shall mean and include all public parks, parkways, boulevards, beaches, water rights, playgrounds, athletic fields, recreation centers, open spaces, and areas publicly owned and acquired for the conservation of natural resources, including all buildings, structures, equipment and appurtenances, also entrances and approaches thereto, and streets, roads, docks and bridges between, to, in, through or connecting such park or parks and parts thereof, and such other rights and appurtenances as the department shall utilize for its purposes, whether the same be now or hereafter owned or acquired in fee or otherwise by the county, or under the care and control of the county by lease, or otherwise, for park purposes, with the exception of **Playland Park**.

Ch 249. DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

Sec. 249.01. Supplemental definitions.

[Added as § 211 by the Laws of 1961, Ch. 679]

Wherever used in this chapter, unless the context or subject matter otherwise requires:

1. The term "park" or "parks" means and includes all public parks, parkways, boulevards, beaches, water rights, playgrounds, athletic fields, recreation centers, open spaces and areas publicly owned and acquired for the conservation of natural resources, including all buildings, structures, equipment and appurtenances, also entrances and approaches thereto and streets, roads, docks and bridges between, to, in, through or connecting such park or parks and parts thereof and such other rights and appurtenances as the department shall utilize for its purposes, whether the same be now or hereafter owned or acquired in fee or otherwise by the county, or under the care and control of the county by lease or otherwise for park purposes, with the exception of **Playland Park**.

Ch 712. COUNTY-OWNED PROPERTY, USE OF

Sec. 712.311. Preservation of trees, shrubs and grass.

[Act No. 74-1967, § 229, eff. 1-2-1968; amended by L.L. No. 9-1994 *Editor's Note: This local law provided that it become effective 1-1-1995.*]

No person shall destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground, take or remove any plant, flower, flower bed, shrub, tree, timber, growing thing, plant growths or any branch, stem, fruit or leaf thereof located on County-owned property except County-owned park property, including **Playland Park**; discard, abandon, pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable or other contrivance thereto; or set fire or assist another to set fire to any timber, trees, shrubs, plants, flower, grass or a plant growth; or suffer any fire upon other land to extend onto County-owned property; or hitch any horse or other animal to or leave the same standing near enough to injure any tree, shrub, lawn, grass, plot or planted area; or go upon the same, except at such times when permission to do so shall have been given by the County Executive or his authorized representative to the public. Before granting or denying such permission with respect to the activities specified in section 712.314 of this chapter, the County Executive or his authorized representative shall refer the matter to the County Planning Board for its recommendation.

Ch 765. PARKS, PARKWAYS AND RECREATIONAL FACILITIES, USE OF

Sec. 765.351. Preservation of trees, shrubs and grass.

[Gen. Ord. No. 5, § 36, eff. 1-1-1979; amended by L.L. No. 18-1993]

No person shall destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground, take or remove any plant, flower, flowerbed, shrub, tree, timber growing thing, plant growth, or any branch, stem, fruit or leaf located in any park, including Playland Park; or discard, abandon, pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable or other contrivance thereto; or set fire or assist another to set fire to any timber, trees, shrubs, plants, flowers, grass or plant growth, or suffer any fire upon other land to extend onto any park; or hitch any horse or animal to or leave the same standing near enough to injure any tree, shrub, lawn, grass plot or planted area; or go upon the same, except in designated areas and at such times when permission to do so shall have been given by the commissioner. Before granting or denying such permission with respect to the activities and items specified in section 765.354 of this chapter, the commissioner shall refer the matter to the County Parks, Recreation and Conservation Board for its recommendation.

Sec. 110.21. Officers and employees; appointments; term.

The County Executive shall appoint to serve at his pleasure, except as otherwise provided in this act, and subject to confirmation by the County Board, the head or acting head of every department and office, the Chairman of the County Tax Commission and members of county boards and commissions. He may with the approval of the County Board act as head of one or more departments or with like approval appoint one head for two or more departments. Subject to confirmation by the County Board, the County Executive shall appoint a Commissioner of Human Resources as provided in section 179.21 of this act and a Real Estate Director as provided in section 170.01 of this act, and may appoint in his own office a Deputy County Executive to assist him in his administrative duties. The County Executive shall also appoint without confirmation by the County Board such other employees of his own office as may be authorized by the County Board. Appointments made by the County Executive shall be on the basis of the training and experience of such appointees in the work which they are to perform.

Chapter 122. COUNTY TAX COMMISSION

Sec. 122.01. Executive Director; appointment and term.

[§ 29 of the Laws of 1937, Ch. 617; amended by the Laws of 1938, Ch. 303; Laws of 1940, Ch. 559; L.L. No. 4-1971; L.L. No. 3-1979]

There is hereby created the Office of Executive Director of the Tax Commission. He shall be appointed by the County Executive subject to the approval of the Board of Legislators. He shall have the same professional standards and shall be entitled to the same term as a Real Property Tax Service Agency Director, as stated in the New York State Real Property Tax Law.

Cross references—Department of Assessment, Ch. 125; Westchester County Tax Law, Ch. 283.

Statutory references—Real property tax, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.

Sec. 122.11. Powers and duties of Executive Director.

[Added as § 29(a) by L.L. No. 3-1979]

Subject to law and the provisions of this act, the Executive Director shall:

1. Examine the assessment rolls for state and county taxes of the several tax districts in the county for the purpose of ascertaining whether valuations in one tax district bear a just relation to the valuation in all the tax districts in the county.
2. Examine the assessment rolls of the several cities in the county, for the purpose of ascertaining if real estate is assessed at a higher or lower valuation for state and county taxes than it is for city taxes.
3. Make a study and survey of the mode of assessment employed in determining the value of real property for such purpose.
4. Confer with and inform local assessors as to their duties in respect to the valuation of real property for tax purposes.
5. Adopt and administer a uniform criteria of assessment procedures.

Sec. 122.21. Services provided by Executive Director.

[Added as § 29(b) by L.L. No. 3-1979]

In addition, the Executive Director shall provide the following services to all cities, towns and villages within the county.

1. Provide upon request advisory appraisals to cities and towns as required by Section 1536 of the New York State Real Property Tax Law.
2. Advise the assessors on procedures for the preparation and maintenance of assessment rolls, property record cards, appraisal cards and other records and documents relating to real property assessment and taxation.
3. Cooperate and assist in the training programs provided by the State Board of Equalization and Assessment.
4. Provide coordination of all assessment improvement programs, on a request basis.

Sec. 122.31. Tax Commission.

[§ 30 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

The Tax Commission shall consist of five members to be appointed by the County Executive with the approval of the County Board. The term of office of the members of such commission shall be five years except that of those first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years and one for five years as designated by the County Board. The terms of office of the present members of such commission shall expire at the end of the calendar year in which their terms would otherwise expire and thereafter appointments shall be so made that they will expire five years from the date of expiration of the term of the member whose place is being filled. One member shall be designated by the County Executive to be the Chairman of the Commission. Two of such members shall be residents of cities in the county for at least five years prior to their respective appointments; two of such members shall be residents of the county, other than cities, for at least five years prior to their respective appointments; and one member shall be a resident of the county for at least five years prior to his appointment. At least two commissioners shall be chosen from the political party polling the highest number of votes and at least one commissioner shall be chosen from the political party polling the next highest number of votes for governor at the last gubernatorial election. Not more than three members of the commission shall be of the same political faith. If the commissioner residing in a city shall remove from that city, except to another city in the county, the office of such commissioner shall become vacant; and if the commissioner residing in that portion of the county outside a city removes therefrom, the office of such commissioner shall become vacant. A vacancy in the commission occurring otherwise than by the expiration of term, shall be filled by appointment by the County Executive with the approval of the County Board for the unexpired term of office of the commissioner in which the vacancy occurs. Members of the commission shall receive and be entitled to receive all reasonable expenses actually incurred in the performance of their duties.

Sec. 122.41. Powers and duties of Tax Commission.

[Added as § 30(a) by L.L. No. 3-1979]

Subject to law and the provisions of this act, the commission shall have the following enumerated powers and duties:

1. To hold public hearings at convenient points throughout the county, to take testimony under oath or otherwise, and to advise the Executive Director in writing as to the results of such hearings.
2. To serve as a review board so as to provide local assessors or municipalities a review of any standards and procedures established by the Executive Director and to render a decision which may either uphold the Executive Director, overrule him or with the consent of both parties modify the standards and procedures established by him. Such review and determination by the commission is a required administrative procedure prior to the commencement of a court action and is binding upon the Executive Director.
3. To serve as a review board to hear presentations by the Executive Director with regard to the failure or refusal of any city, town or village to implement uniform standards and procedures consistent with the New York State Real Property Tax Law and to make a determination based upon all of the evidence. The determination may order that the city, town or village immediately install uniform standards and procedures and upon failure so to do may direct the Executive Director to do so and to charge the cost thereof to the offending city, town or village.

Sec. 122.51. Uniform standards of assessment administration.

[§ 31 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

It shall be the duty of the Executive Director to adopt and administer uniform standards for assessment administration consistent with New York State Real Property Tax Laws. In order to accomplish such uniform standards, as required by subsection 122.11 5. of this article, the Executive Director shall serve upon the Assessor or the Board of Assessors of each city, town and village in the county a copy of such standards of uniform assessment administration. After such criteria of uniform standards of assessment administration have been served upon each Assessor or the Board of Assessors, the Executive Director of the Tax Commission shall visit each city, town and village in the county to determine whether or not such uniform standards are being employed by the Assessor or the Board of Assessors for the purpose of assessing real property in its jurisdiction. The Executive Director and the Tax Commission shall from time to time, and where necessary, hold hearings in any such city, town or village upon written or printed notice to be posted in not less than two public places in such city, town or village. Such notice to be posted at least 15 days before such meeting. In case the assessors in any city, town or village shall fail or refuse to employ the uniform standards in the preparation of assessment

rolls and that fact shall be established to the satisfaction of the Tax Commission, the Executive Director may install such uniform standards therein and the cost thereof shall be advanced by the county in the first instance and included in the next subsequent levy of county taxes against such city or town and in the event that it is a village that has failed to comply, the county may send a bill to such village for the services rendered therein.

Sec. 122.61. Equalization of assessments.

[§ 32 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

There is hereby assigned to the Tax Commission all the jurisdiction, functions, powers and duties of the Board of Legislators and of the Clerk of the Equalization Committee relating to equalization of assessments. The commission shall adopt the latest available state equalization rates for the purpose of ascertaining the valuation of property in each tax district. After adopting the latest available state equalization rate the commission shall determine the full valuation of all property in the county. Thereafter the commission shall determine the percentage of total tax to be paid by each tax district. A written copy of these tables and work sheets shall be filed with the State Board of Equalization and Assessment and a copy of the tables shall be published in the proceedings of the Board of Legislators. Such tables shall also be published in the annual report of the State Board of Equalization and Assessment. On or before the 20th day of December in each year the Commission shall file with the Clerk of the County Board and with the County Executive their report on equalized evaluations in each tax district together with the percentage of total tax to be paid by each tax district and such reports shall be binding and conclusive on the County Board as an equalization of the assessment of real property for such year. No such equalization shall be effective, however, without the concurrence of at least three members of the commission.

Sec. 122.71. Appeal to State Board of Equalization and Assessment.

[§ 33 of the Laws of 1937, Ch. 617; amended by the Laws of 1938, Ch. 303; Laws of 1943, Ch. 559; L.L. No. 3-1979]

The chief executive of a city, town or village, upon behalf of the municipality which he represents may appeal to the State Board of Equalization and Assessment from any act or decision of the Westchester County Tax Commission or its Executive Director with respect to the standardization procedure of assessment administration and the correction of assessment rolls after such appeal is first presented to the Westchester County Tax Commissioner for review. If such appeal is brought on behalf of a town, the majority of the town board of such town shall first consent to the bringing of the appeal. If such appeal is brought on behalf of any other municipality, the majority of the legislative governing body of the municipality shall first consent to the bringing of the appeal. Such appeal shall be brought within ten days after the adoption of the act apportioning the general tax levy against the various municipalities by filing in the office of the County Clerk, the Clerk of the County Board, County Tax Commission and the State Board of Equalization and Assessment a notice of the appeal with such consent endorsed thereon or attached thereto, together with the affidavit of the mayor or supervisor, as the case may be, stating that in his opinion injustice has been done to such city, town or village by the act and decision which the appeal is brought. A duplicate copy of such notice, consent and

affidavit also shall be served personally or by mail upon the County Executive and the State Board of Equalization and Assessment.

Sec. 122.81. Correction of clerical errors in county equalization.

[Added as § 33(a) by L.L. No. 1-1971; amended by L.L. No. 3-1979]

If it appears to the County Board of Legislators that a clerical error has been made by the commission and that by reason of such error injustice has been done to one or more cities and towns and that two years have not elapsed since the equalization, the error may be corrected by the County Board of Legislators. If the equalization cannot be corrected before county taxes, including county district taxes and judicial or other taxes due the state, are levied on the basis thereof, such board shall determine the amount of county taxes, including county district taxes and judicial and other taxes due the state, paid or payable by any such city or town under the equalization in excess of or less than that which such city or town would have paid under such equalization as corrected. The excess shall be subtracted, or the deficiency added, from or to the next county tax levy, including county district levies and judicial or other levies due the state in such city or town as the situation may require.

If the equalization cannot be corrected before taxes or other charges for districts lying in more than one city or town are levied on the basis thereof, and such taxes or other charges are levied by taxing jurisdictions other than the county, the County Board of Legislators shall notify the municipalities involved of the corrected equalization rate which shall be used to apportion such taxes pursuant to section 283.201 of the Westchester County Administrative Code, and of the amount of such taxes or other charges paid or payable by any such city or town under such equalization in excess of or less than that which such city or town would have paid under such equalization as corrected, and the excess shall be subtracted or the deficiency shall be added from or to the next levy in such taxing jurisdiction as the situation may require for correction as provided by law.

Sec. 122.91. Annual conference of assessors.

[§ 34 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

The Executive Director shall annually call a conference of the assessors of the tax districts of the county to meet with the director and/or commissioners at a time and place designated by the Executive Director, for the purpose of considering matters relating to taxation. Each assessor shall be entitled to the same per diem compensation now authorized by law for each day actually engaged in such conference and also to all traveling expenses actually incurred, payable by the particular tax district which he represents, but no additional compensation, other than expenses, shall be allowed or paid to any assessor who is paid an annual salary for his services.

Sec. 122.101. Reports.

[§ 35 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

The Executive Director on or before the twentieth day of December in each year, shall file with the Clerk of the County Board and with the County Executive, a report of his office together with his recommendations. Such report shall contain such information as the County Executive or the Board of Legislators may require.

Sec. 122.111. Transfer of powers to Department of Assessment.

[§ 36 of the Laws of 1937, Ch. 617; amended by L.L. No. 3-1979]

At such time as the provisions of Article VII of this act become fully effective in the county, the County Tax Commission shall be abolished and its powers and duties transferred to and so far as applicable shall be exercised and discharged by the Department of Assessment, in accordance with the provisions of Chapter **125** hereof.

Chapter 125. DEPARTMENT OF ASSESSMENT

[This chapter is inoperative unless and until the proposition provided for in § 125.01 is adopted.]

Sec. 125.01. Vote on creation of Department of Assessment.

[§ 37 of the Laws of 1937, Ch. 617; amended by the Laws of 1942, Ch. 624]

At any general election following the adoption of this act there may be submitted to the electors of the county by act of the County Board in the manner hereinafter provided the question, "Shall there be a County Department of Assessment?" If the vote thereon, in accordance with the provisions of Article 9 of the Constitution, shall be in the affirmative, the subsequent provisions of this article shall become effective in the county. If a majority of the votes cast thereon as above provided, be in the negative, the same proposition may be submitted at any subsequent general election, but not more frequently than once in two years. Such question shall be so submitted if a petition praying its submission and signed by resident electors of the county qualified to vote at the last preceding general election equal in number to five percent of the total vote cast in such county for the office of governor at the last general election at which a governor was elected is filed with the officer or board having jurisdiction of elections in such county not less than 60 days prior to the general election at which it is to be submitted.

Sec. 125.11. Department established. [§ 38 of the Laws of 1937, Ch. 617; amended by the Laws of 1940, Ch. 559]

There shall be a Department of Assessment, the head of which shall be the Commissioner of Assessment, who shall also be the County Assessor. He shall be appointed on the basis of his knowledge of the principles and methods relating to the valuation and assessment of property for the purpose of taxation and of his executive and administrative experience, pertaining to the duties of the office. His term of office shall be for six years, to expire at the end of the calendar year.

Cross references—County Tax Commission, Ch. 122; Westchester County Tax Law, Ch. 283.

Statutory references—Real property tax, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.

Sec. 125.21. Powers and duties of the department.

[§ 39 of the Laws of 1937, Ch. 617]

It shall be the duty of the County Assessor to assess all property other than special franchises, situated in the county and liable to taxation for state, county, city, town, village, school district and special district purposes in accordance with the following provisions:

1. The County Assessor shall formulate and adopt such rules and regulations for the guidance of his deputy assessors as will establish a uniform and equitable system for assessing all classes and kinds of property for the purposes of taxation. When the rules and regulations have been adopted, they shall be made available in printed form to any taxpayer of the county upon application to the County Assessor;
2. He shall have the right to demand that all applications for building permits shall be filed in duplicate with such officers as are authorized to issue building permits in the county or any town, city or village therein, and such officers shall, not less frequently than once a month, deliver to the County Assessor a copy of such applications;
3. He shall have the right to demand that an abstract of all conveyances and mortgages on real property shall be delivered not less frequently than once a month by the County Clerk and/or Register to the County Assessor;
4. The County Assessor shall be responsible for the preparation of an assessment roll or rolls for each town, city, village, school and all special districts in the county as required by the General Tax Law or any special law and in accordance with the rules of the State Tax Commission for said county, town, city, village, school and special district purpose. The County Assessor shall divide the county into assessment districts and shall have the power to appoint such deputy assessors as the County Executive may deem necessary within the appropriations therefor. He shall assign and reassign one or more deputies to each district and shall supervise and direct their work in accordance with the regulations adopted by him;
5. Upon the completion of the assessment roll, one or more copies of so much of said roll as affects (a) each city and any special districts therein, (b) each village and any special districts therein, (c) each town and the school districts and all special districts therein, whether such school or special districts lie wholly or partly within such city, town or village, shall be placed on file in one or more public places in such city, village or town. The County Assessor shall forthwith cause to be published in a newspaper of general circulation in each such city, village and town a notice stating that the roll has been completed, designating the places where the several portions of the same have been placed on file and where they may be examined during business hours every business day and at least one evening each week for not less than two weeks and giving notice of the times and places not less than 21 nor more than 30 days after the date of such publication, at which any person aggrieved by the assessment may appear and be heard in relation thereto;
6. The County Assessor shall perform such duties not inconsistent with those enumerated herein as may be required by the County Executive or the County Board;
7. He shall perform all other duties of local assessors by whatever title they are now designated under the laws of this state not inconsistent with the provisions of this act.

Sec. 125.31. Assessment in separate tax districts to be shown.

[§ 40 of the Laws of 1937, Ch. 617]

The County Assessor, in addition to the requirements contained in the General Tax Law, shall make the assessment roll in such form that each separate city, town, village, school district and special district is shown thereon either by proper subdivision of the assessment roll or by separate columns therefor, or by both of such methods, and whenever necessary, make an apportionment of the assessment of the property between or among the tax districts in which such property is located.

Sec. 125.41. Completion of assessment roll.

[§ 41 of the Laws of 1937, Ch. 617]

The assessor shall complete the assessment roll or rolls on or before the first day of July in each year and shall provide in the notice stating that the rolls have been completed and where they may be examined, and that the board or boards of review will meet at a certain time or times and place or places to review the assessment.

Sec. 125.51. Duration of assessment roll.

[§ 42 of the Laws of 1937, Ch. 617]

The assessor shall on or before the first day of November in each year file the new corrected assessment roll with the County Board and copies of so much of said corrected assessment rolls as affects each city, village and town and the school district and all special districts lying wholly or partly therein with the said local units and thereafter such assessment roll shall be used for all purposes of taxation within such local units until a new assessment roll shall be filed in the following year and all taxes to be levied for the next ensuing fiscal year shall be levied and extended and carried out on the assessment rolls so filed with such local units.

Sec. 125.61. Special franchise assessment.

[§ 43 of the Laws of 1937, Ch. 617]

The State Tax Commission shall file with the County Assessor the statement of the equalized valuation of special franchises within the county as fixed by the State Tax Commission in accordance with the provisions of the Tax Law and the valuation of such franchises so fixed and determined shall be apportioned among the several tax districts according to the provisions of the statute in relation thereto and the County Assessor shall enter such apportioned valuations upon the assessment rolls for the several tax districts.

Sec. 125.71. Office of local assessors abolished.

[§ 44 of the Laws of 1937, Ch. 617]

The offices of assessor, board of assessors and tax commissioners in all cities, towns, villages, school districts and special districts in the county are abolished as of December 31, of the second year immediately succeeding the election at which this article is adopted, and all powers and duties of the said offices, except as they may be inconsistent with the provisions of this act, are

thereupon transferred to the County Assessor. All records whatsoever of any of such offices relating or pertaining to assessment or assessment procedures shall be transferred and delivered to the County Assessor by each such office immediately upon the completion of the assessment roll of each said office during the second year immediately succeeding the election at which this article is adopted, provided that the County Assessor shall thereafter make available to any local unit of government within the county for the purpose of certiorari or other proceedings such records pertaining to the assessment roll of any such local unit of government as may be necessary for the purpose of any such proceeding or action.

Sec. 125.81. Tax rolls of local units.

[§ 45 of the Laws of 1937, Ch. 617]

The assessment rolls made and completed during such second year immediately succeeding the election at which this article is adopted, in or for any local unit of government within the county shall be the assessment roll upon which taxes are levied and collected by such local unit of government for the next fiscal year, such rolls, however, are to be made up under the direction and supervision of the County Assessor.

Sec. 125.91. Review of assessments.

[§ 46 of the Laws of 1937, Ch. 617]

The County Board shall by act establish a method of procedure designed to insure prompt and equitable determination of applications for the review or correction of assessments, which act shall, among other things, provide that hearings for the review or correction of assessments shall be held at convenient places within the county and which shall further provide a method for fair and equitable apportionment of tax liens as between the county and/or the respective local units of government within the county.

Chapter 283. WESTCHESTER COUNTY TAX LAW

Sec. 283.01. Short title; definition.

[§ 521 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. This chapter shall be known as the "Westchester County Tax Law," and provides for the assessment of property and the collection of taxes and assessments in the several towns of Westchester County and in the special tax and school districts in such towns and for the payment of certain taxes to the county by such towns and provides also for the sale and transfer of tax liens for such unpaid taxes and assessments and for the foreclosure of such transfers of tax liens.
2. The term "state board" as used in this chapter, means the State Board of Equalization and Assessment, as established by law.

Cross references—County Tax Commission, Ch. 122; Department of Assessment, Ch. 125; tax exemption for senior citizens, Ch. 470.

Statutory references—Real property tax generally, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.; State Board of Real Property Services, Real Property Tax Law, § 200 et seq.

Sec. 283.11. Filing map.

[§ 522 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The town board of each town shall prepare and file an assessment map, as hereinafter required, to be approved by the state board. One complete copy of such map, corrected as may be necessary from time to time, shall always remain on file in the office of the town clerk or receiver of taxes of each town, and another copy thereof, corrected as aforesaid, shall be continuously kept by the Board of Assessors.

Sec. 283.21. Districts and parcels to be designated.

[§ 523 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The assessment map shall show every separate parcel of land in each town, incorporated village, school district, tax and assessment district, now created, or hereafter to be created therein, on a scale of not less than six inches to the mile, as to farm lands, and with the separate sheets whenever necessary on a scale of not less than 50 feet to the inch, as to villages, incorporated and unincorporated, lot subdivisions and closely settled portions of the towns, on which map shall be shown each road, railroad, bridge, lake, pond, river, watercourse, marsh and other physical characteristics so far as is practicable. Approval of such map or maps heretofore or hereafter given by the appropriate state agency shall be conclusive evidence of compliance with this section.

Sec. 283.31. Special requirements of map.

[§ 524 of the Laws of 1948, Ch. 852]

The map to be so prepared shall show the boundaries of each village, school district and tax district or portion thereof within the town, and so far as practicable, each building or group of buildings.

Sec. 283.41. Engineer to be employed.

[§ 525 of the Laws of 1948, Ch. 852]

The town board of each town may employ and pay a competent engineer who may be but need not be the town engineer at an agreed compensation to aid and assist it in preparing such assessment map and corrections thereof, with authority to make and prepare as many copies thereof as may be needed, in one or more sheets, and in a size of not less than 12 inches by 18 inches. In the event the person employed by the town as its town engineer under the Town Law is employed to make such Assessment Map, he may be paid therefor such compensation as may be agreed upon. In the preparation of such a map, the town board shall not be limited in the matter of compensation to the provisions of the Town Law.

Sec. 283.51. Payment for maps.

[§ 526 of the Laws of 1948, Ch. 852]

The town board of each town is hereby authorized and directed to raise by taxation or pursuant to the Local Finance Law, the amount of money required for the making and preparing of such assessment maps and such moneys shall be paid out by the supervisor of such town upon the voucher or draft usually used and employed in such town for the payment of funds, after the expenses shall have been properly approved by such board.

Sec. 283.61. Description of parcels.

[§ 527 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The board of assessors of each town shall assist the engineer employed by the town board to prepare such assessment map as to the manner of designating the various parcels set forth on said map and shall assist such engineer, within their respective towns, to enter upon each map the boundary line of each farm or lot separately assessed by them, giving each lot or parcel separately assessed by them a distinct and separate assessment number, showing thereon, as nearly as they can learn or ascertain, the area of each farm or lot, with the name, wherever practicable, as nearly as they can learn or ascertain it, of the owner or reputed owner thereof, and also, as nearly as can be ascertained, the distance in feet of the frontage of each separately assessed lot, parcel or farm of land on the highway.
2. In case any municipality or tax district situated in whole or in part within the town has adopted an assessment map, such map may, with the approval of the state board, be adopted so far as it

describes the taxable parcels in such municipality or tax district as the official map of such town to that extent. The map or maps prepared for each town shall be certified by the town board thereof as correct, which map shall be corrected and rectified by such Town Board from time to time, and the several town boards are hereby authorized to incur the necessary expense therefor as a town charge.

Sec. 283.71. Board of Assessors, compensation and expenses.

[§ 528 of the Laws of 1948, Ch. 852]

Except as hereinafter provided, there shall be a board of assessors in each town, who shall be appointed in the manner prescribed by law, from time to time, for the appointment of town assessors, which board of assessors shall make and prepare all assessment rolls for the purpose of taxation within their respective towns, whether for state, county, town, special tax district or school district purpose or purposes, and who shall hold office as prescribed by law from time to time, in reference to town boards of assessors. Before entering upon their duties such board of assessors shall, except as hereinafter provided, organize by electing one of their number chairman and may, with the approval of the town board, appoint a secretary; or the town board may, if it so determines, appoint the chairman who, in addition to his regular duties, shall perform such services in connection with the assessment and taxation of property for state, county and town purposes as the town board shall direct. The town board shall fix the compensation of the person whom it designates chairman of town assessors for all services rendered to the town, both as town assessor and as chairman. The compensation of such assessors shall be fixed by the town board of each town within the county, and the town board shall fix the compensation of such secretary, which may be fixed at the same time when the salaries of such assessors are fixed, which compensation and salaries shall be in full compensation and in lieu of all fees of any kind or character and such compensation shall be a town charge. The town board may allow as a town charge the reasonable and necessary expenses of the assessors incurred in the performance of their duties, and the town board may also designate or rent an office for the board of assessors, which rent shall be a town charge. The assessors shall be residents of the town, but not necessarily residents of any other tax district for which they may be required to make an assessment.

Sec. 283.81. Appointment of one assessor and establishment of a Board of Review.

[§ 529 of the Laws of 1948, Ch. 852; amended by the Laws of 1959, Ch. 148]

1. The town board of any town in the county may by unanimous vote determine by resolution that after the 31st day of December of the year when such resolution is adopted there shall be but one assessor for such town to be appointed as provided by this section, instead of the appointed board of assessors of such town. Upon the adoption of such resolution, the term of office of the assessors of such town then in office shall terminate on the last day of that year, and no successors shall be appointed in their places. In such a town during the month of December of such year, the town board shall appoint a resident of the county as the assessor for such town who shall take office the first day of January of the following year and who shall serve at the pleasure of such town board or for a fixed term not to exceed two years as determined by resolution of the town board, at such salary as may be fixed by such board to be

paid as other town salaries are paid. A deputy assessor to such assessor and subordinates may be appointed by such town board to serve at the pleasure of such board and at such salaries as may be fixed by such board. Such Assessor, except as herein provided, shall possess all the powers conferred upon, be subject to all the obligations imposed upon and perform all the duties appertaining to the office of assessors in the town, and all references in this chapter to "the board of assessors" or "the assessors" shall, except when such board of assessors is acting as a board of review, for such town mean the assessor appointed as provided in this section. For such town there is hereby created a board of review to consist of three members to be appointed by the town board who shall be resident taxpayers of such town and who shall serve at the pleasure of the town board at such per diem compensation as such board may fix; or the town board may by resolution provide that the supervisor, assessor and a town councilman named therein shall be the board of review and act as such without compensation. Within 30 days after their appointment, the members of such board of review shall meet and organize by electing a chairman. Notwithstanding any law to the contrary, such board of review shall hear and determine complaints in relation to the assessment roll, instead of the assessor of such town.

2. In any town in the county the town board may appoint a board of review to consist of three members who shall be resident taxpayers of such town and who shall not be members of the board of assessors, and who shall meet, organize, serve and be compensated as provided above.

Sec. 283.91. Form of assessment roll.

[§ 530 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The assessment roll to be prepared by the board of assessors shall designate the property in the town by the section, lot and block number or other identification of the tax map or maps of the town, and in all other respects it shall comply with the Real Property Tax Law with relation to the preparation of assessment rolls, but there shall be the additional requirement that in each town the assessment in each separate county or town tax or assessment district shall be set forth or indicated in a separate column or subdivision of the assessment roll, and the property shall be designated in the same manner that the assessed property is designated on the tax maps of the town. The assessment roll shall provide columns for the entry of the payment of taxes as paid. The form of the assessment roll shall also be approved by the State Board.

Sec. 283.101. Assessment in separate tax districts to be shown.

[§ 531 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The board of assessors, in addition to the requirements contained in the Real Property Tax Law, shall make the assessment roll in such form that each separate village, school district and special county sewer district is shown thereon either by proper subdivision of the assessment roll or by separate columns therefor, or by both of such methods, and whenever necessary, shall make an apportionment of the assessment of the property between or among the tax districts in which such property is located. Separate assessments shall be made for each parcel shown on the tax map except that where two or more adjoining parcels so shown on the tax map are used and/or

occupied as a single unit, the assessor may assess such parcels together as one unit, provided that the tax roll shows the tax map designations, unless such parcels so shown on the tax map are divided by a village, tax or assessment district line, in which event the area and value shall be apportioned on the assessment roll as to each separate district. It shall be the duty of the assessor annually to correct the assessment map so as to show separate assessments in accordance with this section, and such correction shall be completed on or before March 1 in each year.

Sec. 283.111. Special franchise assessment.

[§ 532 of the Laws of 1948, Ch. 852; amended by L.L. No. 6-1972]

When the town clerk shall have received from the State Tax Commission the statement of the equalized valuation of a special franchise as fixed by such commission in accordance with the provisions of the Tax Law, he shall, within five days after such receipt by him, deliver a copy of such statement to the assessors of the town. The assessors shall enter upon the assessment rolls of their town the valuation of the special franchises as fixed and determined by the State Tax Commission and shall proceed to apportion the valuation of the special franchises among the several tax districts within the town according to the provisions of the statute in relation thereto and shall enter such apportioned valuations upon the assessment rolls of the several tax districts, except that such valuations shall not be apportioned against any such franchise during the enforcement of any restraint or prohibition of the collection thereof upon such franchises by an order of a court of competent jurisdiction.

Sec. 283.121. Completion and verification of assessment roll; notice of hearing to review assessments.

[§ 533 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 275; the Laws of 1962, Ch. 386]

1. The assessor or the assessors, as herein provided, shall complete and verify the assessment roll on the first day of June of each year, make out a copy thereof to be left in the office of the town clerk and forthwith cause a notice to be conspicuously posted in three or more public places in the tax district and cause to be published a similar notice in at least one newspaper either published in such town or having a general circulation therein, stating that he or they have completed the assessment roll and that a copy thereof has been left at the office of the town clerk where it may be seen and examined by any person until the third Tuesday of June in each year, and that on that day the assessors or board of review, as the case may be, will meet at a time and place specified in such notice for the purpose of reviewing any such assessment at the instance of any interested party. A board of review shall meet on the third Tuesday of June in each year and thereafter continue to meet at such time or times as may be necessary and appropriate to consider and determine the objections or grievances filed against the assessments, and in such town the notice of hearing shall so state.
2. If the office of the town clerk and the office of the assessor or assessors are located in the same building, it shall not be necessary to file a copy of the assessment roll with the town clerk, but the copy on file in the assessor's office shall be open for inspection as provided in this section and, in that case, the notice of the completion of the assessment roll shall so state.

3. A copy of the assessment roll as completed and verified on the first day of June of each year shall on or before the first day of July in the same year be filed in the office of the County Tax Commission.
4. The assessor or the assessors shall also, between the first and fifth days of June in each year, mail a notice to each corporation and person nonresident of their town who has filed with the town clerk on or before the fifteenth day of May in each year a written demand therefor. Such notice shall specify each parcel of land assessed to such corporation or nonresident and the assessed valuation thereof and the time and place where the complaints in relation thereto may be heard. During the time specified in such notice posted as aforesaid, the town clerk or the assessors shall submit the roll to the inspection of every person applying for that purpose.
5. The oath to be severally subscribed by the assessors, where there are more than one, shall be in the following form: "We, the undersigned, do severally depose and swear that we have set down in the foregoing assessment roll all the real estate situate in the tax district in which we are assessors, according to our best information; and that with the exception of those cases in which the value of any special franchise has been fixed by the state board, we have estimated the value of said real estate at the sums which a majority of the assessors have decided to be the full value thereof," which oath shall be written or printed on the assessment roll and signed and verified by the assessors. In a town having but one assessor, as provided by section 283.81 hereof, the above requirements as to the oath shall be the same, except that it shall be in the singular.

Sec. 283.131. Hearing and determination of complaints.

[§ 534 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The assessors, or board of review, as the case may be, shall meet at the time and place specified in such notice and hear, review and determine all complaints brought before them in relation to the assessment roll, and for that purpose may adjourn from time to time. Such complainants shall file a statement under oath specifying the respect in which the assessment complained of is incorrect, which statement must be made by either the person whose property is assessed or a person authorized to make such statement and who has knowledge of the facts stated therein. The assessors, or board of review, may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, they may require the person whose property is assessed, or his agent or representative or any other person, to appear before them and be examined concerning such complaint and to produce any papers relating to such assessment with respect to his property or his residence, for the purpose of taxation. If any such person or his agent or representative shall willfully neglect or refuse to attend and be so examined, or to answer any material question put to him, such person shall not be entitled to any reduction of his assessment.
2. The assessors, or board of review, shall, after said examination, review the valuation of the property so complained of and may increase or reduce the assessment thereof. In the event the assessors or board of review, as the case may be, desire to increase any such assessment, they must give the owner of the property at least ten days notice by mail addressed to his last

known address, of a hearing before them on the question of such increase, and in that event the board may adjourn the hearing for all such cases to some date subsequent to the date or dates fixed for review, but may consider at such adjourned hearing only those cases where the above notice of a proposed increase has been given.

3. Such a board of review may in the hearing of complaints employ a stenographer, at the town's expense, to take the minutes of its hearings, and such minutes shall be on file in the office of the assessor.

Sec. 283.141. Date of taxable status; time for filing complaints or applications for change in assessment.

[Added as § 534-a by the Laws of 1962, Ch. 386; amended by L.L. No. 3-2004; L.L. No. 6-2006; L.L. No. 3-2008, § 1]

1. The date of taxable status for the purpose of determining the exempt or nonexempt character of property on any annual assessment roll shall be June 1. Any town may, subject to the approval of its local legislative body, elect to have a taxable status date to be May 1. Any town electing to use the May 1 taxation date pursuant to this subdivision shall notify the Westchester County Department of Finance within 30 days of such action. Nothing in this subdivision is intended to affect any other provision of this chapter.
2. All applications or statements regarding complaints with respect to the assessment roll must be filed with the assessors or the board of review, as the case may be, not later than the third Tuesday in June, except that any such complaint may be accepted by the assessors or board of review at any adjourned hearing.
3. Any town may, subject to the approval of its local legislative body, elect the valuation date to be the same as the valuation date used by the New York State Office of Real Property Tax Services or any successor agency for Equalization Rate purposes to value the real property within said town. Any town electing to use the valuation date used by the New York State Office of Real Property Tax Services or any successor agency as the valuation date pursuant to this subdivision shall notify the Westchester County Department of Finance within 30 days of such action. Nothing in this subdivision is intended to affect any other provision of this chapter.

Sec. 283.151. Correction and verification of assessment roll by assessors or board of review.

[§ 535 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 275]

1. When the assessors, or a majority of them, shall have increased or decreased any of the assessments shown on the assessment roll, after hearing and determination of complaints as provided in section 283.131 hereof, they shall correct the roll in accordance therewith and note in the margin thereof the nature of the change and shall then appear before an officer of the county authorized by law to administer oaths and shall severally make and subscribe before such officer an oath in the following form: "We, the undersigned, do severally deposte and

swear that the foregoing assessment roll completed by us as of June first, 19__, has by reason of proof produced before us had certain items thereon increased or decreased as shown on the margin opposite such items so changed, and that we have estimated the value of such items so changed at the sums which a majority of the assessors have on review decided to be the full value thereof," which oath shall be written or printed on said assessment roll and signed by the assessors.

2. The assessors, or a majority of them, shall also prepare a statement of the changes so made in the roll, which said statement shall certify that such changes have been made in the roll as filed with the County Tax Commission or before July 1, and that the roll so filed, with the changes certified in said statement, is the same as the original final roll filed with the town clerk and constitutes a certified copy thereof and shall file said statement and certification with the County Tax Commission on or before the 15th of September.
3. When a board of review, by a majority vote, shall have determined to reduce or increase any of the assessments complained of, a schedule of their decisions in such determinations, setting forth the values at which such items of real property are to be assessed, shall be prepared in quadruplicate. The original schedule shall be signed and verified by such board of review, or a majority of them and attached to the original signed and verified assessment roll. One copy shall be filed in the Town Clerk's office and two copies delivered to the assessor or assessors so that he or they may make the changes indicated therein and certify such changes to the County Tax Commission. The assessor or assessors shall correct the assessment roll in accordance with such decisions of the board of review and shall note in the margin of said roll the nature of the changes and shall thereafter certify upon the original verified schedule of decisions that he or they have corrected said roll in accordance therewith. The assessor or assessors shall, upon the second copy of such schedule of decisions, make and certify a statement that such changes have been made in the roll as filed with the County Tax Commission on or before July 1 and that the roll so filed, with the changes certified in said statement, is the same as the original final roll filed with the town clerk and constitutes a certified copy thereof, and shall file such schedule and certified statement with the County Tax Commission on or before the 15th of September. The schedule of decisions of the board of review shall be set forth in one document, and an extract of as much thereof as shows an increase or decrease in any assessment shall be mailed to the last known address of the complainant or the party appearing in his behalf. If no reduction or increase is to be made, no decision need be made and filed. The oath to be severally made and subscribed by the members of the board of review, or a majority of them, shall be in the following form: "We the undersigned, do severally depose and swear that the foregoing schedule of decisions shows the increases or decreases made by reason of proof produced before us upon reviewing the assessment roll of the Town of for the year 1900: and that as to such items we have estimated the value thereof at the sums which a majority of the Board of Review has decided to be the full value thereof," which oath shall be written or printed on said document containing said schedule of decisions of the board of review and signed by the members of such board.

Sec. 283.161. Filing of roll and notice thereof.

[§ 536 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 275; L.L. No. 8-1967]

When the assessment roll shall have been thus reviewed, corrected and verified, the assessor or assessors shall make and certify one copy thereof, and shall, on the 15th day of September, file such certified copy in the office of the town clerk, to remain for public inspection until delivered by the Town Clerk to the supervisor of the town as hereinafter provided. The assessor or assessors shall forthwith cause a notice that such assessment roll has been reviewed and corrected and stating that such certified copy has been so filed, to be posted conspicuously in at least three public places in the tax district and to be published in one or more newspapers, if any, published in the town or, if there be none, in one or more newspapers having general circulation therein, and a copy of such notice to be mailed to the County Attorney. The original assessment roll, together with the certified copy thereof, shall on or before the 30th day of September be delivered to the supervisor of the town.

Sec. 283.171. Completed assessment roll official: duration, use and publication thereof.

[§ 537 of the Laws of 1948, Ch. 852]

On the 15th day of September in each year, the completed assessment roll shall be filed and thereafter such assessment roll shall be the official assessment roll for the town and each special tax district and school district or portion thereof lying within such town and shall be used for all purposes of taxation therein until the completed assessment roll shall be filed in the following year, and all taxes shall be levied and extended and carried out in the assessment rolls filed with the supervisor. The town board may publish or cause to be published the assessment roll in whole or in part.

Sec. 283.181. Certification of taxes.

[§ 538 of the Laws of 1948, Ch. 852]

After the lawful authorities for each town and/or special town district shall have fixed the amount of taxes to be raised therefor, the proper authorities shall certify to the supervisor of such town the amount of such tax, and it shall be the duty of the supervisor of such town, except for county sewer district taxes, to cause the same to be levied by the town board against the property within such tax district as shown on the assessment rolls. Notwithstanding any provision of law to the contrary, the supervisor shall extend or cause to be extended the amount of tax against each particular property in each tax district, extending state, county, town and special district tax and assessments unless previously extended, in one of the copies of the assessment roll delivered to him by the board of assessors, and the school tax in the other, or either copy of such assessment roll as the supervisor shall find most convenient.

Sec. 283.191. Tax budget and tax lien.

[§ 539 of the Laws of 1948, Ch. 852; amended by the Laws of 1949, Ch. 81; the Laws of 1958, Ch. 715]

1. No tax shall be certified to the supervisor of any town except upon the adoption of a tax budget, including in specific items, the amount which is to be raised for each particular purpose. If, before the fixing of the state, county and county district tax by the County Board, the supervisor of any town files with the County Board a certified copy of a resolution passed by such Town Board, requesting the County Board to estimate for such town the probable amount of state, county and county district taxes and/or assessments and any other taxes and assessments and statutory items chargeable to such town other than town, town district and school district taxes and assessments, to be levied and assessed upon the taxable property of such town, said County Board shall estimate the probable amount thereof and direct its clerk to advise the town board of such town. Such estimated amount shall be the amount to be certified as provided by section 283.201 of this chapter and extended as provided by section 283.211 of this chapter. The clerk of the County Board shall certify to the County Commissioner of Finance said estimated amount, which amount shall be paid to the County Commissioner of Finance by such town as provided in this chapter, except as hereinafter set forth. If the estimated amount for the town or any district or part of a district therein exceeds the amount actually apportioned to such town and the separate districts therein, the apportioned amount only shall be paid to the County Commissioner of Finance, and the surplus shall be deducted by the supervisor from the estimated amount in the next succeeding year. In the event that the estimated amount for the town or any district or part of a district therein is less than the apportioned amount, the town board is authorized to borrow, as provided by the Local Finance Law, the amount necessary to make good the deficiency, which amount, with interest, if any, shall be added by the supervisor to the next year's estimated amount.
2. State, county, county district, town and town district taxes and assessments shall become a lien on the taxable property of a town and/or tax district on April 1 in each year and shall be payable on April 1 as the tax for that calendar year, except that in a town where said taxes are estimated in advance, they shall become a lien on the taxable property of such town and/or tax district on February 1 in each year and shall be payable one-half of the total levy on February 1 and one-half on June 1; and school district taxes and assessments shall become a lien on the taxable property of such district on September 1 in each year and shall be payable on September 1 as the tax for that school fiscal year. Such tax or taxes shall be designated by the year in which they become a lien. Such lien shall be a continuing lien subject to cancellation as in this chapter otherwise provided.

Sec. 283.201. Determination and levy of tax.

[§ 540 of the Laws of 1948, Ch. 852; amended by L.L. No. 9-1990; L.L. No. 10-1998]

1. The amount of the annual state, county and county district taxes and assessments shall be fixed, determined and levied by the County Board. The amount of the state, county and county district taxes and assessments, including any other statutory charges, shall be thereafter apportioned against each tax district and levied against the taxable property of such district. The amount so apportioned and levied shall be duly certified to each tax district by the clerk of the County Board before March 1 in each year.

2. Notwithstanding any general or special law to the contrary, the amount of the annual town and town district taxes and/or assessments, including any other statutory charges or assessments which are chargeable against the real property in such town, shall be fixed, determined and levied by the Town Board. The amount or amounts so levied and assessed shall be raised by tax upon the real property of the town liable therefor at the time and in the manner in this chapter provided for the raising of the state, county and county district taxes and assessments.
3. The amount of the annual tax and special assessments of each school district shall be fixed and determined as the law provides by the trustees and the board of education of each school district and shall be certified to the supervisor of the town before June 1 in each year. In the case of a school district lying in more than one town, the supervisors of the towns in which such school district lies shall apportion the school tax to the parts lying in their respective towns according to the full value of such property lying in each town, to be determined by the equalization rate for such town as fixed by the County Board for the assessment roll upon which such school tax is to be extended. Provided that, in the event that a segment special equalization rate has been determined by the New York State Board of Real Property Services for the apportionment of school taxes and such segment special equalization rate has the same valuation date as the equalization rate or rates used to apportion school taxes in the other town or towns located within the school district, the supervisors of those towns for which a segment special equalization rate has been determined shall apportion the school tax for such segment for that year by applying any such segment special equalization rate. Such segment special equalization rate shall be adjusted for any change in level of assessment within such segment. The change in level of assessment shall reflect the change from the assessment roll for which the New York State Board of Real Property Services established the segment special rate to the assessment roll upon which the tax is levied.
4. The calculation of the county tax, including the amount of state, county and county district taxes and assessments, and any other statutory charges to be chargeable or apportioned against each tax district to be fixed, determined and levied by the County Board and the preparation of the proposed Acts of the County Board fixing the tax distribution tables and determining the amounts of county taxes to be levied against the various towns and cities and the preparation of warrants for the collection of the county tax shall be undertaken and provided in each year by the Commissioner of Finance, who shall submit said calculation and documents to the County Board on or before February 1 in each year.

Sec. 283.211. Extension of tax and tax warrant.

[§ 541 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

Upon receiving such certification, the supervisor of each town shall immediately extend or cause to be extended the tax or assessment for such certified tax district, as well as the town levies, and shall execute and deliver to the receiver of taxes his warrant for the collection of all taxes or assessments, as provided in section 283.301 of this chapter.

Sec. 283.221. Penalties.

[§ 542 of the Laws of 1948, Ch. 852; amended by the Laws of 1958, Ch. 715; the Laws of 1962, Ch. 386; L.L. No. 19-1995]

1. The following scale of penalties is hereby prescribed for the neglect to pay the state, county, county district, town and town district taxes or assessments after the levy thereof; if paid during the month of April, no penalty; if paid during the month of May, two percentum; if paid during the months of June and July, five percentum; if paid during the months of August and September, seven percentum.
2. Where said taxes are estimated as provided in section 283.191, then the part of said tax which becomes payable on February 1 of each year, if paid during the month of February, no penalty; if paid during the month of March, two percentum; if paid during the months of April and May, five percentum; if paid during the months of June and July, six percentum; if paid during the month of August, seven percentum.
3. Where said taxes are estimated as provided in section 283.191, then that part of said tax which becomes payable on June 1 of each year, if paid during June, no penalty; if paid during the month of July, two percentum; if paid during the month of August, five percentum.
4. The aggregate of said installments which become payable on February 1 and June 1, respectively, if paid during September, seven percentum.
5. All taxes and assessments which become payable either February, April or June 1, if paid during the months of October, November or December, ten percentum; if paid thereafter and
 - (a) If the taxes and assessments became liens before January 1, 1995, 12 percentum up to the time of sale, as hereinafter provided; or
 - (b) If paid thereafter and if the taxes and assessments became liens on or after January 1, 1995, then:
 - (i) If the municipality has not chosen to opt out of the enforcement procedures of Article 11 of the New York State Real Property Tax Law pursuant to Subdivision 2 of Section 1104 of said Law or has opted out but the exemption has expired, then 12 percentum up to the first day of May of the year following the year in which the tax or assessment became a lien and if paid thereafter, an additional one percentum per month (i.e. May—13 percent, June—14 percent, etc.) on the "delinquent tax", as such phrase is defined in Section 1102, Subsection 2, of the New York State Real Property Tax Law, up to such time as either all taxes and assessments have been paid or the municipality has taken title to the property; and in such case where the municipality has taken title to the property and the property is thereafter redeemed in accordance with applicable law, from the time title passes to the municipality, an additional one percentum per month, until the date of redemption; or
 - (ii) To the extent that the municipality has opted out of the enforcement procedures set forth in Article 11 of the New York State Real Property Tax Law in accordance with the

requirements of Subsection 2 of Section 1104 of said Law and such exemption is still in effect, then 12 percentum up to the time of sale, as hereinafter provided.

6. The following scale of penalties is hereby prescribed for neglect to pay school taxes after the levy thereof: if paid during the month of September, no penalty; if paid during the month of October, two percentum; if paid during the month of November, five percentum; if paid during the months of December and January, seven percentum; if paid during the months of February and March, ten percentum; if paid thereafter and
 - (a) If the taxes and assessments became liens before January 1, 1995, 12 percentum up to the time of sale, as hereinafter provided; or
 - (b) If paid thereafter and if the taxes and assessments became liens on or after January 1, 1995, then:
 - (i) If the municipality has not chosen to opt out of the enforcement procedures of Article 11 of the New York State Real Property Tax Law pursuant to Subdivision 2 of Section 1104 of said Law or has opted out but the exemption has expired, then 12 percentum up to the first day of May of the year following the year in which the tax or assessment became payable and if paid thereafter, an additional one percentum per month (i.e. May—13 percent, June—14 percent, etc.) on the "delinquent tax", as such phrase is defined in Section 1102, Subsection 2, of the New York State Real Property Tax Law, up to such time as either all taxes and assessments have been paid or the municipality has taken title to the property; and in such case where the municipality has taken title to the property and the property is thereafter redeemed in accordance with applicable law, from the time title passes to the municipality, an additional one percentum per month, until the date of redemption; or
 - (ii) To the extent that the municipality has opted out of the enforcement procedures set forth in Article 11 of the New York State Real Property Tax Law in accordance with the requirements of Subsection 2 of Section 1104 of said Law and such exemption is still in effect, then 12 percentum up to the time of sale, as hereinafter provided.

Sec. 283.231. Compensation of supervisor.

[§ 543 of the Laws of 1948, Ch. 852]

The annual salary of the supervisor as fixed by the town board shall include his compensation for carrying out the provisions of this chapter, except for the necessary incidental expenses and disbursements including necessary compensation, if any, for extension of taxes, which shall be a town charge.

Sec. 283.241. Receiver of taxes.

[§ 544 of the Laws of 1948, Ch. 852]

There shall be elected in each town a receiver of taxes, who shall hold office for a period of four years and take office on the first day of January after his election, whose duties it shall be to collect all state, county, town, school, county district and town district taxes and assessments levied or assessed upon any taxable property within such town. He shall also when directed by resolution of the town board collect all water rates, water taxes, water charges, fixed and determined, whether current or in arrears against owners or property within such town, all fees and charges for street opening permits, sewer and water connecting permits, and do and perform such acts and things as the town board may, from time to time, by resolution direct. Such receiver of taxes shall be a resident of the town but not necessarily a resident of any other tax district for which he may be required to collect taxes or assessments. He shall hold no other elective public office, except that he may act as the receiver of taxes and assessments of any village or villages in such town in the event that, with the approval of the town board, he is so designated and appointed by the action of the village board. The town may make such arrangements for the collection of the village taxes as to it shall seem just and proper, and any compensation for the receiver of taxes so acting shall be paid to the town. In the event that the town receiver of taxes shall be designated to collect the taxes of any village within the town for which he was elected receiver of taxes, he shall be governed by the provisions of law applicable to the collection of taxes in such village, except as herein otherwise provided or authorized. The cost of any undertaking required by the village of such receiver of taxes for the faithful discharge of his duties and accounting for all money collected shall be a charge against such village. Subject to the approval of the town board any of the duties of the receiver of taxes may, under his direction, be performed by any employee in his office. A vacancy in the office of receiver of taxes occurring except by expiration of term shall be filled in the manner provided by law, for the unexpired balance of the term of such receiver.

Sec. 283.251. Receiver of taxes to file bond.

[§ 545 of the Laws of 1948, Ch. 852]

Before entering upon the performance of his duties, such receiver of taxes shall make and file an undertaking, the amount thereof and the sureties thereon to be approved by the town board, and the members of such town board shall endorse their approval upon such bond, and the same shall be filed in the office of the County Clerk and become a lien on all the real estate held by the receiver or his sureties within the county at the time of the filing thereof and shall continue to be such lien, until its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied. The bond of any receiver of taxes, after the expiration of his term of office, shall be cancelled by the town board when satisfied that he has fully accounted for and duly paid over all moneys received by him; and said bond shall be cancelled in the office of the County Clerk upon the filing in the office of the County Clerk of a certified copy of the resolution of the town board cancelling such bond.

Sec. 283.261. Compensation of receiver of taxes.

[§ 546 of the Laws of 1948, Ch. 852]

The town board of each town shall fix the salary of the receiver of taxes before he shall have begun the performance of his duties, which salary shall be payable monthly or semimonthly as

other town salaries are paid, and which salary shall be in full compensation and in lieu of all fees of any kind. The receiver of taxes shall keep the records of unpaid taxes in the manner prescribed by the town board.

Sec. 283.271. Office and office hours of receiver of taxes.

[§ 547 of the Laws of 1948, Ch. 852; amended by the Laws of 1954, Ch. 262; the Laws of 1962, Ch. 386]

The town board of each town shall provide a suitable office for the receiver of taxes, with the necessary furniture and fixtures, and the receiver of taxes shall attend on such days and hours and at such places in his town as the town board may, by resolution, direct. The expense of maintaining such office shall be a town charge and shall be raised by taxation in the same manner as other town charges.

Sec. 283.281. Receipts and payments by receiver.

[§ 548 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

Such receiver of taxes shall deposit to the credit of such town all taxes, assessments, penalties and moneys collected and received by him in a bank or banks to be designated by the town board. Such deposits shall be made daily or as directed by resolution of the town board. Such deposits shall be withdrawn and/or transferred by the check or draft of the supervisor to the several accounts, appropriations or funds kept by him, except that in towns having a comptroller the same shall be transferred and/or paid out only upon the warrant and/or draft of the comptroller signed by the supervisor. Such receiver shall file with the supervisor duplicate deposit slips or receipts showing the amount of each of such deposits. He shall on or before the fifth day of each month file a report with the supervisor, to be presented to the town board at its next meeting, showing the amount of state, county, town, school district and special district taxes and assessments collected and received by him. He shall on or before the fifth day of each month file with the treasurer of each school district within such town, a report showing the amount of taxes and assessments belonging to such school district collected by him during the preceding month. He shall on the 15th day of October of each year file with the County Commissioner of Finance a report showing the amount of state and county taxes and assessments uncollected by him since the first day of February, April and/or June, as the case may be, last preceding. The town board on the application of any member thereof may authorize an examination and audit of the books of the receiver of taxes or supervisor, and the expense thereof shall be a town charge to be paid as are other town expenses.

Sec. 283.291. Payments by supervisor.

[Added as § 549 by the Laws of 1962, *Editor's Note: Former § 549 was repealed by the Laws of 1962, Ch. 386, § 9.* Ch. 386]

1. The supervisor shall pay to the County Commissioner of Finance on or before the 25th day of May in each year, not less than 60 percent of the taxes, special ad valorem levies and special assessments, if any, due to be paid to the County Commissioner of Finance during such

calendar year, and the balance thereof shall be paid on or before the 15th day of October in each year. In the event that any town fails to pay to the County Commissioner of Finance on or before the 15th day of October in any calendar year the full amount due for such calendar year and tax anticipation notes are issued by the county pursuant to the Local Finance Law for the amount of the deficiency, the County Commissioner of Finance shall certify to the County Board and also to the town on account of whose failure to pay any tax anticipation notes have been issued, the amount of such deficiency, adding thereto interest at the rate of six percentum per annum from the 15th day of October to the first day of June in the following year. Upon receiving such certification the County Board shall apportion to and levy upon such town the amount of such deficiency together with the interest thereon. Such town shall cause the amount of such deficiency and interest to be inserted in and become a part of the levy for its next fiscal year. After such apportionment and levy against any such town by the County Board, all taxes thereafter collected in such town to the amount of such deficiency and interest shall either be paid over to the County Commissioner of Finance as collected, or deposited in a special account to be held for and paid over to the County Commissioner of Finance on or before the 25th day of May in the year in which the tax anticipation notes are due. The amounts so paid to the County Commissioner of Finance shall be used only to pay such notes and interest and the balance, if any, shall be applied to general county purposes.

2. Each town shall pay to the County Commissioner of Finance each month as collected the proportionate share of taxes, special ad valorem levies and special assessments due to be paid to the County Commissioner of Finance. In the event that the monthly payments so made are insufficient to meet the percentage payments due under subdivision 1. hereof, the balance shall in each case be paid as provided in such subdivision. It shall be the duty of each town charged with the making of such payments to cause such payments to be made as provided in this section.
3. The supervisor of each town shall pay to the treasurer of any school district within the town on the fifth day of each month from school district taxes collected the proportionate share of taxes and special assessments due to be paid to said school district or districts.
4. Any state, county, town, special district or school district taxes collected after the supervisor has received the report of unpaid taxes from the receiver, as provided by section 283.361 of this chapter, shall belong to the town and shall be paid over to the supervisor by the receiver of taxes, except as provided in the second paragraph of such section.

Sec. 283.292. Adjustments for uncollected taxes.

[Added by the Laws of 1983, Ch. 1012]

1. At the time a town in Westchester county shall obtain title to a parcel of real property on account of nonpayment of taxes, special ad valorem levies and special assessments levied upon such parcel, the town may, for a period of one year after the date of such acquisition, apply to the county commissioner of finance for an adjustment of county taxes paid by the town to the county attributable to such parcel under section 283.291 subsequent to January 1, 1982. The town's application shall be in such form and provide such information as the county

commissioner of finance may from time to time require and shall certify the amount of county taxes paid by the town to the county attributable to such parcel which were not actually collected by the town for that parcel. Upon receipt of a properly completed application by a town, the county commissioner of finance shall pay to the town an amount equal to the amount of county taxes certified by the town in such application as paid to the county that were not actually collected by the town with respect to such parcel.

2. Repayment by a town to the county of the sums provided under subdivision 1. of this section shall be made as follows:
 - a. Upon a determination by the town to utilize the subject parcel for municipal purposes, the town shall forthwith repay to the county the full amount of any payment made by the county to the town pursuant to this section pertaining to such parcel.
 - b. Upon receipt by the town of full payment of taxes due on such parcel by tax sale or otherwise, the town shall forthwith repay to the county the full amount of any payment made by the county to the town pursuant to this section pertaining to such parcel.
 - c. Upon receipt by the town of partial payment for taxes due on such parcel by tax sale or otherwise, the town shall forth-with repay to the county a proportionate share of any payment made by the county to the town pursuant to this section pertaining to such parcel. The proportionate share to which the county will be entitled will be the proportion that county taxes bear to all real property taxes due against such parcel.
3. The county, on notice to the town, shall be entitled to inspect all books and records of the town and to perform audits and inspections of such books and records, including, but not limited to, on-sight [site] audits and inspections, for the purpose of auditing any payments made, to be made or that should be made under this section.
4. For purposes of the administration of this section, or if the town shall fail to timely make payments to the county as required hereunder, the county commissioner of finance may set off amounts due a town under this section against other amounts due the county from the town under this section. The foregoing rights of set off shall not affect or limit any other right or remedy to which the county may be entitled in case of failure of the town to make timely payments under this section.
5. For purposes of this section, the term "county taxes" shall include taxes, special ad valorem levies and special assessments imposed by Westchester county and any special district thereof.

Sec. 283.301. Tax warrants and notice of collection of tax or assessment.

[§ 550 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The town supervisor shall deliver to the receiver of taxes separate warrants for the collection of taxes, as follows: a warrant for the collection of state, county, county district, town and town district taxes and assessments; and one or more warrants for the collection of school taxes and

assessments. Such warrants must be delivered by the supervisor to the receiver of taxes at least ten days before the time fixed for the collection of the taxes or assessments. In case the execution of any warrant shall not be completed during the term of office of a receiver of taxes, such warrant shall be continued to his successor in office.

2. The collection of state, county, county district, town and town district taxes and assessments shall begin on the first days of February, April and/or June, as the case may be, in each year. The collection of school taxes and assessments shall begin on the first day of September in each year.
3. Within seven days after the receipt of any warrant from the supervisor, the receiver of taxes shall advertise the collection of such tax or assessment by causing a notice of the reception of such warrant to be posted in five conspicuous places in the town, and at least one notice within each tax district and in addition to posting such notice the receiver of taxes shall publish the same notice once in such newspaper or newspapers as the town board may direct. Such notice shall also contain a statement of the penalties for deferred payment of the taxes or assessments as herein provided. If the town board shall require the receiver of taxes to sit for the collection of taxes and assessments at any place other than the office of the tax receiver, the notice shall also specify such place or places in the town and several villages and tax districts therein, and the dates and hours when he will attend thereat.
4. It shall be the duty of the receiver of taxes to receive all payments of all taxes and assessments, whether made before or after the sale of property for the nonpayment of taxes and/or assessments, and to receive and receipt for all payments for the redemption of property previously sold for taxes and/or assessments and to deposit all receipts therefrom as provided in section 283.281 of this chapter.
5. No further notice than that herein required shall be deemed necessary in the case of property owned by either a resident or a nonresident. The town board may, however, direct the receiver to mail to each taxpayer in the town whose address is known to said receiver a tax bill for all taxes and assessments, the expense thereof to be a town charge.
6. Any person or corporation whether a resident or nonresident of the tax or assessment district, who is the owner of or has an interest in real property liable to assessment in the town may file with the receiver of taxes of the town in which such real property is situated, a notice stating his name, residence and post office address or, in the case of a corporation, its principal office, a description of the premises with its number or other designation on the tax map, which notice shall be valid and continue in effect for not to exceed five years, unless sooner invalidated by a change of ownership or cancelled by such person or corporation.
7. The receiver of taxes shall, within ten days after receiving any warrant for the collection of taxes and/or assessments, mail to each person or corporation filing such notice, at the post office address stated therein, a duplicate tax bill for all taxes and assessments upon such real property included in such warrant. But the failure of the receiver of taxes to mail such duplicate tax bill shall not invalidate such tax or assessment or prevent the accruing of any interest or penalty imposed for the nonpayment of such taxes or assessments, as hereinbefore

provided, but such receiver of taxes shall be personally liable to the person or corporation filing such notice for any damages sustained by such person or corporation by reason thereof.

Sec. 283.311. Payment of school taxes in installments.

[Added as § 550-a by the Laws of 1962, Ch. 386; amended by L.L. No. 12-1997]

1. The town board may by resolution authorize the receiver of taxes to accept from any taxpayer two partial payments in equal installments for or on account of school taxes and apply such payments on account thereof, in the manner prescribed by the said resolution, but the second partial payment of school taxes shall be made in the month of January and no installments may be paid unless the first installment of current school taxes, including interest and penalties, shall have been paid or is paid at the same time. If the second partial payment is received during the month of January, no interest or penalty shall be charged against the second partial payment.
2. Unless the first partial payment is received during the month of September and the second partial payment is received during the month of January, penalties provided for the payment of school taxes prescribed in section 283.221 of this chapter shall apply respectively to such partial payments received subsequently to the month of September and/or the month of January.
3. The acceptance of a part of such taxes shall not be deemed to affect any rights and power of the town under this chapter, but such rights and powers shall remain in full force and effect to enforce collection of the unpaid balance of such taxes or tax liens together with interest, penalties and other lawful charges.
4. Whenever a resolution has been adopted pursuant to this section, the notice required to be given by the collecting officer shall state that school taxes may be paid in installments as provided in the resolution. Warrants for the collection of taxes levied while such resolution continues in force shall contain appropriate directions for the collection of taxes in the manner specified in such resolution. If the second installment of taxes is paid on or before the date when due, no interest shall be charged thereon.
5. Where two partial payments of school taxes in equal installments are authorized under this section, the first installment shall be due and payable on September 1 and the second installment shall be due and payable on January 1. Notwithstanding the payment of school taxes in installments under this section, school taxes shall become a lien on the taxable property of the school district on September 1.

Sec. 283.321. Receipt of taxes.

[§ 551 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. Every receiver of taxes shall deliver a receipt wholly written in ink or partly printed and filled out in ink or indelible pencil or typed, to each person paying any tax or assessment, specifying

the date of such payment, the name of the last known owner and the amount of such tax, a description of the property as shown on the assessment roll and the assessed valuation thereof, and, for special franchise tax, the amount thereof; and the receiver of taxes shall keep a duplicate copy of the same. The town board of each town shall prescribe the form of such receipts and they shall be furnished to the receiver of taxes by the town at the expense of the town. On the back of such receipt, there shall be printed a statement showing the total assessed valuation of real estate, the total assessed valuation of special franchises, the total assessed valuation of all property taxable within the town or other tax district, the tax rate and the total taxes, together with a summary of the tax budget and the rate for each tax district, as well as the information required by section 980 of the Real Property Tax Law.

2. The town board may provide that such statement be printed separately, in which case the receiver of taxes shall mail with each receipt for taxes a printed copy of such statement.

Sec. 283.331. Reports by receiver of taxes.

[§ 552 of the Laws of 1948, Ch. 852]

Such receiver of taxes shall at any time upon ten days' written notice by the town board or the board of education or trustees or trustee in any school district in the town, file a verified report with such town board, board of education, trustees or trustee, which, upon demand of the town board shall show every item of state, county, town, school and town district tax and assessment uncollected by him during the current fiscal year and which upon demand of the board of education, trustees or trustee of any school district shall show the total amount of taxes and assessments of such school district uncollected by him during the current fiscal year.

Sec. 283.341. Collection of taxes and assessments in arrears.

[§ 553 of the Laws of 1948, Ch. 852]

All taxes and assessments which have been or shall have been imposed in any town or in any tax district located within the boundaries of any town shall be collected by the receiver of taxes and the power heretofore vested in the supervisor and town clerk by the provisions of the Laws of 1874, Ch. 610 and the acts amendatory thereto, empowering them to assign or cancel the leases of any property within the town which has been heretofore leased to such town for nonpayment of taxes, shall be vested in the receiver of taxes, and the proper officers of each tax district shall certify to the receiver of taxes, all taxes and assessments and sales and leases for the same which have been or shall have been imposed before that date, and it shall be the duty of the receiver of taxes to collect all such taxes and assessments and to deposit the same as provided in section 283.281 of this chapter. In case of all taxes and assessments which shall have accrued and been imposed in any tax district, the receiver of taxes is hereby authorized, directed and empowered to collect such taxes, with interest and penalties, pursuant to the provisions of the law under which such taxes and assessments accrued or were imposed and in the manner provided by law to collect such taxes or assessments at the time of their imposition.

Sec. 283.351. Report of unpaid taxes and assessments.

[§ 554 of the Laws of 1948, Ch. 852]

Each of the several receivers of taxes of the towns in the county shall, on the first day of April in each year, preliminary to tax sale as provided in this chapter, make and deliver to the supervisor of the town an account of all taxes and assessments mentioned in any tax rolls of the previous year remaining unpaid at the time of such report. Such receiver of taxes, at the time of making such report, shall add in a separate column to be provided for the purpose, the penalties hereinbefore prescribed for deferred payment of taxes and assessments, which percentage shall be for the use and benefit of the town and shall be added to the amount of such unpaid taxes and assessments and collected therewith.

Sec. 283.361. Town to pay certain unpaid taxes or assessments.

[§ 555 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. On the first day of October in each year the receiver of taxes shall render to the supervisor a statement or account of unpaid state, county, county district, town and town district taxes and/or assessments for the current year, and the supervisor shall then pay to the Commissioner of Finance the amount of such unpaid state, county and county district taxes and assessments included in such report or account as provided in section 283.291 of this chapter, and on the 31st day of March the receiver of taxes shall render to the supervisor a statement or account of unpaid school taxes levied the preceding year, and the supervisor shall thereupon pay to the treasurer of each school district the amount of such unpaid school taxes of such district as included in such statement or report. Such payments shall be made from the proceeds of tax anticipation notes issued pursuant to the Local Finance Law or from other moneys of the town which are available therefor. The supervisor shall retain from such moneys the amount of unpaid town or town district taxes included in such report; and such taxes and assessments with the penalty, interest, percentage and expenses shall be collected as in this chapter provided.
2. In the event the town cannot dispose of tax anticipation notes issued for the purpose of providing funds for any such payments, then the receiver of taxes shall continue to keep a record of such state, county, county district and school taxes and assessments and the supervisor shall as herein provided continue to pay the same to the Commissioner of Finance and to the school districts.

Sec. 283.371. Payment of tax anticipation notes.

[§ 556 of the Laws of 1948, Ch. 852]

The supervisor shall include in and as a part of any annual tax levy such part or portion of such outstanding tax anticipation notes represented by tax liens which were purchased by the town, as the town board shall by resolution authorize and direct, and the amount when so levied and collected shall be applied to pay or reduce the amount of such tax anticipation notes. In the event that there are no such outstanding tax anticipation notes and/or where the aggregate amount of such tax anticipation notes outstanding shall be placed in the annual tax budget of a town and

levied as a tax, such moneys so collected and received for redemption of transfers of tax liens, shall be kept by the supervisor in a fund and retained as a reserve. The town board may from time to time borrow from such fund on one or more tax anticipation notes, and as the taxes are collected in anticipation of which the notes were issued, such notes shall be paid off and the amount so borrowed, returned or repaid to said fund. Except as the moneys in such reserve fund may be borrowed on tax anticipation notes actually issued to such fund as herein provided, the same shall be used only on authorization of the town board to reduce the annual town estimate.

Sec. 283.381. Correction of errors in assessment rolls by town boards.

[§ 557 of the Laws of 1948, Ch. 852]

1. If it shall be made to appear to the Town Board of any town upon the verified petition of a majority of the assessors of said town:
 - a. That any taxable property therein has by mistake been placed on the assessment roll or any separate tax district column thereof for the current year, at a value different from what the assessors intended for such property, such board may cause the assessment roll to be corrected and if the value is increased to cause to be inserted thereon the additional amount of tax or assessment due because of such increase and if the value is decreased to cause to be credited thereon so much of the tax or assessment as is represented by the amount of decrease.
 - b. Second. That any taxable property therein has been omitted from any assessment roll or any separate tax district column thereof for any preceding year or years, such board shall cause the same to be inserted on the roll for the current year at a valuation to be fixed by the assessors in their petition, which shall be the value for the year or years omitted and shall also cause to be inserted thereon in addition to the amount of tax or assessment for the current year and in a separate column properly designated, the amount of tax or assessment which such property should have borne for the year or years when such property was omitted, which shall be at the rate percentum of all such omitted years.
 - c. Third. That any taxable property therein has been omitted from the assessment roll or any separate tax district column thereof for the current year, such board shall cause the same to be placed thereon at a value to be fixed by the assessors in their petition and shall cause the amount of tax or assessment to be placed thereon which shall be at the rate percentum of the current year.
 - d. Fourth. That any taxable property therein has been assessed erroneously or illegally, such board shall cause such value of assessment and the tax or assessment thereon to be cancelled.
 - e. Fifth. That any taxable property therein has been assessed in any assessment roll or any separate tax district column thereof including the current roll with property of another, or another person, or persons, have become owners of a part or parts of such property since the

making of the current roll, such board may cause the assessed valuation and the amount of tax or assessment thereon to be apportioned accordingly.

- f. Sixth. That any taxable property therein was indefinitely assessed, or for good and sufficient reason the tax or assessment on such property indefinitely assessed was not paid, such board may waive the penalties, charges, costs and interests thereon.
2. A copy of the petition under the first, second or third subdivision of this section, with a notice of the presentation thereof to the town board, shall be served in such manner as the town board may direct or approve on the person or corporation who is the owner of the property liable to taxation, and the town board shall take no action on such petition unless proof of the manner of service of such petition and notice be made to them by affidavit. The town board shall give to the person or corporation who is the owner of the property liable to taxation an opportunity to be heard and on such hearing and review, the town board shall have all the powers that the assessors have in reviewing and correcting the assessment roll. Such person or corporation shall within ten days after the determination to change any such assessment roll be given written notice either personally or by mail of such change. Within 15 days thereafter such person or corporation may apply for a writ of certiorari as provided by the tax law to review such determination of the town board. If under the fourth subdivision of this section any tax or assessment shall be erroneous, such town board shall cause the same to be reassessed as omitted property under subdivision b. If under the first subdivision of this section the value of the assessment is decreased, such board shall cause so much of the tax as is not due to be refunded if same has been paid. If under the fourth subdivision of this section any tax or assessment is illegal or erroneous, such board shall cause the same to be refunded or adjusted if same has been paid. If under the fifth subdivision of this section any tax or assessment is apportioned, the receiver of taxes of said town shall receive the same separately when so apportioned. If under the sixth subdivision of this section any penalty, charge, cost or interest on any tax or assessment is waived, the receiver of taxes of said town shall receive the amount of tax or assessment without such when a certified copy of the resolution waiving the same is filed with him. If under the fourth subdivision of this section any tax or assessment shall be illegal or under the first subdivision of this section any tax or assessment shall be decreased, or in case of a reassessment of an erroneous tax or assessment, the amount of tax or assessment finally due is less than the amount of tax or assessment as shown on the roll, or any separate tax district column thereof before such tax or assessment was found to be erroneous, the amount thereof, or the amount of difference of such tax or assessment as the case may be, shall in the case of a district tax or assessment be certified by the supervisor of the town to the proper officials of such tax district and shall be included in the next levy of taxes made for such district and duly paid to the town, and in the case of a tax or assessment other than a district tax or assessment may be included in the next levy of taxes made for such town. Any addition to the rolls of omitted taxable real property, as herein provided, or any reassessment of any tax or assessment, as herein provided, or any correction of an error as herein provided, by which the tax is made greater than was the original assessment shall not cause such additional amount to be a lien on the real property as against purchasers or mortgages in good faith.

Sec. 283.391. Sales of tax liens for taxes and assessments; proceedings.

[§ 558 of the Laws of 1948, Ch. 852; amended by the Laws of 1957, Ch. 153, the Laws of 1962, Chs. 386, 388]

1. The right of the town to receive taxes and assessments and the lien thereof may be sold by the town and after such sale shall be transferred in the manner provided by this chapter. The right and lien so sold shall be called "tax lien" and the instrument by which it is assigned shall be called "transfer of tax lien."
2. Whenever any tax on lands or tenements, any assessment on lands or tenements for local improvements or any town district tax or assessment, levied subsequent to January 1, 1915, or school district tax or assessment levied subsequent to January 1, 1914, shall remain unpaid as shown on the return of the receiver of taxes provided for by section 283.351 of this chapter, it shall be lawful for the supervisor to advertise the tax liens on such lands and tenements, or any of them, for sale. Such advertisement shall include the tax lien for all items up to a date named in the advertisement for which a sale has not been had or a lease given, and by such advertisement the owner or owners of such lands and tenements shall be required to pay the amount of such taxes and assessments with the penalties thereon, as hereinbefore provided, so remaining unpaid, together with the charges of the notice and advertisement, to the receiver of taxes of such town, and notice shall be given by such advertisement that if default shall be made in such payment the tax lien on such lands and tenements will be sold at public auction at a day and place to be specified therein for the lowest rate of interest, not exceeding 12 percentum per annum, at which person or persons shall offer to take the same in consideration of advancing such taxes and assessments and penalties as the case may be, together with the charges of the above-mentioned notices and advertisement and all other costs and charges accrued thereon.
3. If, notwithstanding such notice, the owner or owners shall refuse or neglect to pay such tax, assessment and penalties and the charges attending such notice and advertisement, it shall be lawful for the supervisor to cause such tax lien on such lands and tenements to be sold at public auction for the purpose and in the manner expressed in the advertisement, and such sale shall be made on the day and at the place for that purpose mentioned in such advertisement, and shall be continued from time to time, if necessary, until all the tax liens on the lands and tenements so advertised shall be sold.
4. The tax lien on houses or land, or improved or unimproved lands, shall not be sold at public auction for the nonpayment of any tax and assessment which may be due thereon unless notice of such sale shall have been posted in five public places in the town at least three weeks before the day fixed for such sale, and, if there be one or more newspapers published in the town, such notice shall be published at least once in each of the three calendar weeks consecutively next preceding the calendar week in which the day of sale is fixed, in one such newspaper published in the town as shall be designated by the town board of such town, and, if no newspaper is published in such town, the town board may authorize the publication of such notice in a newspaper published in the county and having a general circulation in the town.
5. Said notice so posted and published as aforesaid shall have appended thereto a particular and detailed statement of the property on which the tax lien is to be sold, by giving the section,

block and lot number or other identification of the tax map or maps of the town, together with such other description, if any, as the supervisor may direct; or the supervisor at his option may cause such detailed statement and description of the premises so to be sold to be printed in a pamphlet, in which case copies of the pamphlet shall be deposited in the office of the receiver of taxes of the town and shall be delivered to any person applying therefor. Such detailed statement and description shall also give the total sum for the nonpayment of which a tax lien is to be sold.

6. In the event that the supervisor causes such detailed statement and description together with the total sum for the nonpayment of which a tax lien is to be sold, to be printed in pamphlet form, as herein provided, the notice to be posted and published as hereinbefore provided shall state that such detailed statement, description and statement of taxes is printed in pamphlet form, deposited in the office of the receiver of taxes of the town and that any person can receive the same by applying therefor during the office hours of the receiver of taxes as herein provided. No other notice or advertisement of the taxes or assessments shall be required to authorize the sale of tax liens on any lands or tenements as hereinbefore provided.
7. The sale of tax liens under the provisions of this chapter shall be held on such day during the week beginning with the third Monday of May in each year as the supervisor may determine.

Sec. 283.401. Postponement of sales.

[§ 559 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. It shall be lawful for the supervisor to suspend or postpone any sale or sales of tax liens on lands and tenements, or any portion thereof, which shall have been advertised for sale, to any time not more than 30 days after date specified in any such advertisements. All sales which shall be so postponed or suspended may be made without further advertisement other than a general notice of such postponement to be published and posted as provided in section 283.391 hereof.

Sec. 283.411. Sales of tax liens to be conducted by the supervisor.

[§ 560 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. The supervisor or, in the event of his absence or inability to act, the receiver of taxes, shall conduct the sales hereinbefore provided to be made, and no auctioneer other than the supervisor, or the receiver of taxes as herein provided, shall be employed to make such sale, and no auctioneer's fees shall be charged thereon. The supervisor shall require from each purchaser of a tax lien at the time of such sale a deposit on account of 25 percentum of the amount of the tax lien purchased by him, for which the receiver of taxes shall give his receipt, and not later than ten days after the date of the sale the balance shall be paid to the receiver of taxes at his office.
2. If no bid shall be received for a tax lien offered for sale, the supervisor for and on behalf of the town shall bid in the said tax lien, and upon such bid no deposit or payment in cash shall be

required from the town. When the town has bid in any tax lien a transfer of the tax lien to the town shall be executed by the supervisor in the form and manner prescribed for other transfers of tax liens, and the town shall have the same rights in, to and under such transfer of tax lien as purchaser, as if the same had been bought by any other person. A transfer of tax lien in the possession of a municipal subdivision entitled thereto shall be a continuing lien until paid, transferred or otherwise discharged. The supervisor of the town at any time either before or after the institution of a foreclosure action may accept a deed of conveyance of the property covered by the transfer of tax lien conveying to the town the fee of said premises, but such deed shall not be taken subject to any mortgage, lien, judgment, or other incumbrance, except taxes, tax liens and transfers of tax liens, due and owing to the town or a village wholly or partly within the town, leases and restrictive covenants of record.

3. The supervisor shall sell any such property so acquired either at public or private sale as the town board may by resolution direct and upon such terms and conditions and for such sum or sums as the town board shall by resolution fix and determine and convey title thereof in the name of the town. He may also obtain and pay for a title search and policy insuring the title to the property in the name of the town.
4. Transfer of tax lien shall be made and delivered to the purchaser without charge upon the payments therein shown to be due. In case any purchaser shall not complete his purchase in accordance with the terms prescribed as herein provided, then the amount deposited by him at the time of the sale shall be forfeited to the town, and the entire tax lien upon the lands affected by such purchase shall be sold again, such resale to be held at such time as the supervisor may direct, and notice thereof shall be posted and published as hereinbefore provided for the original sale of such tax liens. All deposits forfeited, as aforesaid, shall be paid to the supervisor and by him credited to the general town account.

Sec. 283.421. Transfer of tax liens.

[§ 561 of the Laws of 1948, Ch. 852]

A transfer of tax lien shall operate to transfer and assign the tax lien upon the lands or tenements described therein for taxes and assessments and penalties thereon and the charges of the notices and advertisement given pursuant to section 283.391 of this chapter, and all other costs and charges so advertised for sale and to create a lien upon property affected thereby for the interest to which the purchaser may be entitled under his bid, but such tax lien so sold shall be subject to all taxes and assessments, including school taxes or interest acquired from the sale or lease of the premises for the same, which are still unpaid and due and owing to the town making the sale; also subject to all town taxes, special district assessments and school taxes which have or may become a lien subsequent to the taxes or assessments for which the tax lien is sold, also subject to any and all subsequent transfers of tax liens against said premises. A transfer of tax lien shall contain a transfer and assignment by the town of the tax lien sold to the purchaser, the date of the sale, the aggregate amount of the tax lien so transferred and the items of taxes, assessments and penalties composing the tax lien, the annual rate of interest which the purchaser has bid and will be entitled to receive, the date when the amount of the tax lien will be due and the description of the real property affected by the tax lien, and shall refer for certainty to the designation of said

property on the official town map by its section, block and lot number, and such other identifying description as the supervisor may deem proper to advertise. Each transfer of tax lien shall be subscribed by or on behalf of the official making the sale, or his successor in office, and shall be acknowledged by the officer subscribing the same in the manner in which a deed is required to be acknowledged, to be recorded in the county in which the real property affected is situate.

Sec. 283.431. Record of transfer of tax liens.

[§ 562 of the Laws of 1948, Ch. 852]

The receiver of taxes of the town shall keep in his office a public record of sales of tax liens, and a copy of each transfer of tax lien issued by him. Assignments of transfers of tax liens, duly acknowledged, may be filed and recorded in the office of the receiver of taxes. Assignments of transfers of tax liens held by the town shall be executed by the receiver of taxes. A transfer of tax lien, and any assignment thereof duly acknowledged, shall be deemed conveyance under the provisions of the Real Property Law and may be recorded in the office of the recording officer of any county in which the real property which it affects is situate. Transfers of tax liens, and all assignments thereof, shall be recorded by the recording officer in the same manner as mortgages and assignments thereof, but without payment of the tax under Article 11 of the Tax Law. The record in the office of the receiver of taxes of sales of tax liens, of a transfer of tax lien and of a copy of a transfer of tax lien and of an assignment of transfer of tax lien, a record of transfer of tax lien in the office of a recording officer and of an assignment of transfer of tax lien duly acknowledged in the office of a recording officer, shall be evidence in any court of the state without further proof. A transcript of any record enumerated in this section, duly certified, shall be evidence in any court in the state with like effect as the original instrument of record. Neither the tax lien nor the rights transferred or created by a transfer of tax lien shall be impaired by failure of a recording officer to record a transfer of tax lien made by the town through the receiver of taxes.

Sec. 283.441. Rights of purchaser of tax lien.

[§ 563 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The aggregate amount of tax lien transferred pursuant to this chapter shall be due three years from the date of the sale. Until such aggregate amount is fully paid and discharged, the holder of the transfer of tax lien shall be entitled to receive interest on such aggregate amount from the day of sale, on the first day of December following the sale and semiannually thereafter, at the rate which the purchaser shall have bid. At the option of the holder of any transfer of tax lien the aggregate amount thereof shall become due and payable after the expiration of nine months from the date of sale either after default in the payment of interest on such transfer of tax lien for three months and/or after default for three months after the date of the sale of the tax lien in the payment of any taxes or assessments which become a lien subsequent to the taxes and assessments for which the tax lien so held is sold. The holder of a tax lien may pay to the receiver of taxes, after default, the amount of any subsequent taxes or assessments which have become a lien subsequent to the taxes and/or assessments for which the lien so held was sold, and the amount so paid shall bear interest at the rate of six percentum per annum from the date of such payment and the amount so paid with interest may be added to the aggregate amount of the

tax lien upon foreclosure of the tax lien. Upon the payment of such tax or assessment as aforesaid by the holder of such a tax lien the receiver of taxes shall note such payment with the name and address of the holder of such tax lien on the tax record. The owner of the property affected thereby shall have the right to repay the amount of any tax or assessment so paid with interest at any time before the starting of an action to foreclose the tax lien. In any instance where the town has bid in the tax lien and received a transfer thereof and the assessed value of the lot or parcel of land as assessed upon any subsequent roll is less than \$100.00, the supervisor is authorized to advance on behalf of the town the amount of any subsequent tax or assessment, and in that event the tax lien for the amount of such tax so paid shall not be sold, but the amount so paid with 12 percentum interest from the date of such payment shall be due and payable upon any redemption of the transfer of tax lien so held or upon foreclosure thereof as hereinafter provided as a part of such tax lien.

Sec. 283.451. Payment of tax liens.

[§ 564 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. Any person having an interest as owner or mortgagee in the property affected by a tax lien may satisfy or obtain an assignment of the same by payment to the receiver of taxes of the town in the following manner:
 - a. At any time prior to the service of notice to redeem, as provided in section 283.491, the payment shall consist of the principal amount due and/or unpaid for or on account of such transfer of tax lien with interest at the rate bid to 30 days after the date of payment, less any payments made by any party on account thereof.
 - b.
 - i. The holder of the transfer of tax lien or any party to an action to foreclose the same or any party in interest may give written notice to the receiver of taxes of the town that notice to redeem has been served or that an action to foreclose has been commenced, and upon receiving such written notice such receiver of taxes shall require the payment of the amounts hereinafter set forth.
 - ii. Notice that an action to foreclose has been commenced shall have attached to it a copy of the notice of pendency of action with a statement of the date when the same was filed in the County Clerk's office.
 - c. After the service of notice to redeem, if payment is made within the 30 days provided in such notice, such payment shall consist of the amount set forth in the notice to redeem or, if such payment be made after the expiration of such 30 days but prior to the time that the receiver of taxes shall have had notice of the commencement of a foreclosure thereof, attached to a copy of the lis pendens with the date of filing in the County Clerk's office endorsed thereon, the payment shall consist of the amount unpaid and due on such transfer of tax lien with interest at the rate bid for all unpaid interest thereon to 30 days after the date of payment with disbursements as set forth in section 283.491 hereof.

- d. After the receiver of taxes shall have had notice of the commencement of an action to foreclose such transfer of tax lien, with a copy of the notice of pendency of action attached as above stated, and prior to judgment of foreclosure, any person having an interest as owner or mortgagee in the property affected by such tax lien may file in the office of the receiver of taxes of the town a written notice of his intention to redeem and shall pay to such receiver of taxes a sum equal to the principal amount unpaid and due on such tax lien with interest at the rate bid to 30 days after the date of payment. Such notice and payment shall stay the proceedings in the foreclosure action except as hereinafter provided. Upon receiving such notice and payment, the receiver of taxes shall thereupon within five days give notice of such filing and payment personally or by mail to the attorney for the holder of such tax lien at the address appearing on the copy of lis pendens filed with the lien and therein direct that costs be taxed by the clerk of the court in which the action is pending on five days' written notice to the person filing notice of intention to redeem, mailed to the address stated in such notice of intention. The bill of costs shall not exceed \$10.00 for costs and may include disbursements actually made or incurred not exceeding \$25.00 for all authorized title searches for each tax parcel and postage paid in connection with the service of notice to redeem and not exceeding \$2.00 for each person served with a summons together with the other taxable disbursements, including referees's fees, if any, actually paid or incurred to which the plaintiff may be entitled and \$5.00 for discontinuance, cancellation and other services as hereinafter provided. Such bill of costs shall also set forth the names and addresses of the persons to whom such disbursements were paid or are payable and the nature of each item of disbursement. After such costs have been taxed by the clerk of the court in which the action is pending, a certified copy thereof shall be filed in the office of the receiver of taxes. If such certified copy of bill of costs be filed with the receiver of taxes within 25 days after the filing of such notice of intention to redeem and payment, the transfer of tax lien, by the further payment to the receiver of taxes of the amount of such bill of costs within said period of 30 days after the filing of the notice of intention to redeem as above provided, shall be discharged and satisfied of record or an assignment thereof given. If no such certified copy of bill of costs be filed with the receiver of taxes within said 25 days as above provided the holder of such transfer of tax lien shall immediately execute and deliver to the party redeeming, a duly acknowledged satisfaction or a duly acknowledged assignment thereof. At the time of the delivery of any satisfaction or assignment as in this subdivision provided and before the payment by the receiver of taxes of any sum to the holder of the transfer of tax lien or to his attorney, such holder of the transfer of tax lien shall cause to be delivered without any further payments the original transfer of tax lien and any and all assignments thereof, if any, also a consent to the discontinuance of the action and a cancellation of the lis pendens without costs, also an affidavit showing the parties served, the date of service and whether any of them have appeared, attaching to the affidavit the original or a copy of all notices of appearances and answers, if any. If payment of costs is not made in the manner above provided, the stay of proceedings shall be thereby vacated and the plaintiff authorized to continue the action but shall give credit in the judgment of foreclosure for all amounts paid as hereinafter provided.
- e. All payments made to the receiver of taxes as in this section provided shall be received by him for the benefit of the holder of the tax lien so paid and he shall give notice thereof to such holder or a personal representative or assignee by mail addressed to such address as

may appear on the records of the receiver of taxes. The receiver of taxes shall pay the amount of such payments so received to the person who, according to the records of his office, appears to be entitled thereto, or to the personal representative of such person, upon such receiver of taxes receiving a surrender of such transfer of tax lien with assignment thereof, if any, together with a certificate of cancellation or an assignment thereof as requested by the party paying and in the event a foreclosure of such tax lien is pending a consent to the discontinuance of such action and the cancellation of the lis pendens without costs. If a foreclosure action shall have been pending at the time of payment and such payment shall have been insufficient to discharge said transfer of tax lien as in Subdivision d hereof provided and shall so continue within the times therein provided, the receiver of taxes shall pay the amount so received by him to the person who, according to the records of his office, appears to be entitled thereto or the personal representative of such person. Any foreclosure of tax lien action may be ordered discontinued, and any notice of pendency of such action ordered cancelled, by the court in which such action is pending upon proof of the discharge of the tax lien being foreclosed in the manner aforesaid.

2. Any person having an interest as owner or mortgagee in property affected by a tax lien may pay the amount due on such tax lien directly to the holder thereof. The amount payable shall be the same amount as may be paid to the receiver of taxes of the town, and it shall be unlawful to demand or receive a greater amount in payment of a transfer of tax lien than that provided in subdivision 1. hereof. Upon making such payment such person shall be entitled to receive from the holder of said tax lien the same documents as if such payment had been made to the receiver of taxes all as provided in subdivision 1.d. hereof.
3. The record owner or holder of a transfer of tax lien shall, on request by any person having a legal or beneficial interest in property affected by such transfer of tax lien, furnish a statement of the balance due and unpaid on account of any such lien giving balance due on account of principal; and interest thereon, giving rate and date from which interest is charged to date of statement.
4. The receiver of taxes shall furnish suggested forms for assigning and also for satisfying transfers of tax liens.

Sec. 283.461. Apportionment of tax liens.

[§ 565 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The assessor or assessors shall at the written request of the owner, mortgagee or prospective purchaser or mortgagee apportion any transfer of tax lien affecting property which is to be or has been subdivided, or of which a part is to be or has been sold or mortgaged, or where two or more lots have been assessed together, and file such apportionment with the receiver of taxes. The receiver of taxes shall upon the filing of such apportionment in his office give written notice thereof by mail to the holder of any transfer of tax lien so apportioned and also to all owners or mortgagees as are shown in an affidavit to be filed by the applicant for such apportionment. The applicant shall file with the receiver of taxes an affidavit showing who are the owners of the property, with their names and addresses and also the names and addresses of all mortgagees

holding mortgages against the whole or any part of the property in reference to which the transfer of tax lien is to be apportioned. The holder of any such transfer of tax lien or any owner or mortgagee may within ten days thereafter give to the receiver of taxes written notice of objections to the apportionment and shall within ten days after filing written notice proceed to review by certiorari the action of the assessor in making such apportionment. In the event of the failure of the holder of any transfer of tax lien or owner or mortgagee to file objections to the apportionment within ten days, or if he files objections, to proceed to review such apportionment within 20 days after the filing of the written notice of the apportionment, such apportionment shall be effective and the receiver of taxes or the holder of such transfer of tax lien shall thereupon accept payment of the amount so apportioned as affecting any part of the property so apportioned and thereafter all provisions of this chapter in reference to the payment of the transfer of tax lien, or the foreclosure thereof, shall apply to the apportioned amounts. Nothing herein contained shall require the assessor or assessors to apportion any transfer of tax lien where such apportionment would so divide the property assessed that a sale thereof as so divided would result in a violation of any ordinance, statute or law or under like circumstances would be detrimental to the interests of the town or to the property if so divided.

Sec. 283.471. Discharge of tax liens.

[§ 566 of the Laws of 1948, Ch. 852; amended by the Laws of 1959, Ch. 95]

A tax lien sold pursuant to the provisions of this chapter must be discharged upon the record thereof by the receiver of taxes when payment is made to him of the amount due under the transfer of tax lien as in this chapter provided, or when the transfer of tax lien is surrendered to him for cancellation and there is presented to him a certificate executed by the purchaser, or the personal representative or assignee of the purchaser, acknowledged so as to be entitled to be recorded in the county in which the real property affected by such tax lien is situate, certifying that the tax lien has been paid or has been otherwise satisfied and discharged. The transfer of tax lien thus surrendered and such certificate of discharge must be filed by the receiver of taxes and he must note upon the margin of the record of such sale, upon such transfer of tax lien and upon the copy of the transfer of tax lien kept in his office, a minute of such discharge and the date of filing thereof. If the transfer of tax lien shall have been lost or destroyed or mutilated and if payment of the amount due thereon be made to the receiver of taxes, such amount shall not be paid to the alleged holder or owner of such transfer of tax lien, except on an order of the court after notice of application to the party or person paying such amount due and due proof that such transfer of tax lien has been lost, destroyed or mutilated and the filing of a certified copy of such order with the receiver of taxes to be taken in the place and stead of the transfer of tax lien so lost, destroyed or mutilated. The receiver of taxes shall upon demand issue his certificate showing the discharge of any tax lien which may have been duly discharged as provided in this section, and such certificate may be filed in any office where the transfer of tax lien is recorded, and any recording officer with whom such a certificate is filed shall record the same, and upon the margin of the record of such transfer of tax lien in his office shall note a statement that the same has been discharged with a reference to the record of such certificate in his office.

Sec. 283.481. Exemption from taxation.

[§ 567 of the Laws of 1948, Ch. 852]

Tax liens and transfers of tax liens shall be exempt from taxation by the state or any local subdivision thereof, except transfer and estate taxes imposed by the general tax law. The real property affected by any tax lien shall not be exempt from taxation by reason of this section.

Sec. 283.491. Foreclosure of tax liens.

[§ 568 of the Laws of 1948, Ch. 852; amended by the Laws of 1953, Ch. 839]

1. If the amount of any tax lien which shall have been transferred by a transfer of tax lien shall not be paid, or redeemed after notice as in this chapter provided, when under the terms and provisions of this chapter and of the transfer of tax lien such amount shall be due, the holder of such tax lien may maintain an action in the Supreme Court, or in the County Court, to foreclose such tax lien. No action to foreclose a tax lien or transfer of tax lien shall be instituted hereunder unless the holder of such tax lien or transfer of tax lien shall have served, after the right to foreclose has accrued, notice to redeem upon the record owner or owners of the premises affected by such lien, also on the mortgagee or mortgagees affected by such tax liens; provided, however, that the service of any such notice to redeem shall not be required or necessary prior to the institution of an action to foreclose a tax lien, or transfer of tax lien, held by a town, if the owner of the premises affected by such tax lien or transfer of tax lien shall commit or permit or fail to enjoin the commission of waste upon said premises or any part thereof, or shall do or permit the doing of any other damage thereto; or if the owner of any person claiming an interest in said premises shall enter into a contract for the commission of waste upon said premises, or any part thereof, or the doing of any other damage thereto; in either of which events any municipality holding or owning a tax lien or transfer of tax lien shall be entitled to an injunction to prevent a waste or other damage and in addition thereto, without notice, be entitled as a matter of right to the appointment of a receiver of the rents and profits arising from said premises and to stay pending such appointment. A notice to redeem shall be of not force and effect if served prior to the occurrence of the defaults under which the lien described in said notice may be foreclosed in pursuance of this chapter. Said notice to redeem shall require the persons served to pay the amount due under such tax lien or transfer of tax lien to the receiver of taxes of the town or to the holder of such tax lien or transfer of tax lien within 30 days from the service of said notice and shall set forth a verified statement of the amount required for redemption, which shall consist of the amount due on account of such tax lien with interest at the rate bid up to the date of the expiration of such 30-day period together with disbursements actually made or incurred not exceeding \$10.00 for all authorized searches for each tax parcel and disbursements for postage. The notice shall be served by registered mail addressed to the last known address, if any, of the persons served, as shown by the records in the office of the receiver of taxes and/or in the office of the County Clerk, division of land records. In the event that such records fail to disclose the names of such owners or mortgagees or fail to disclose the addresses of any such owners or mortgagees, the receiver of taxes shall, at the request of the owner of such tax lien or transfer of tax lien or his representative, post such notice in his office and upon the expiration of 30 days from the date of such posting the tax lien or transfer of tax lien holder shall have the same rights as if the registered notice was given as herein provided. In an action to foreclose a tax lien or transfer of tax lien any person shall be a proper party if the plaintiff alleges positively or upon information and belief that such person has or may have an interest in or claim upon the real property affected by the tax lien or transfer of tax lien. Except as otherwise provided in this

chapter an action to foreclose a tax lien or transfer of tax lien shall be regulated by the provisions of the civil practice act, including the right to the appointment of a receiver of the rents and profits pending such foreclosure proceedings as in the case of the foreclosure of a mortgage, the same rules and laws applying; by the provisions of Article 15 of the Real Property Law applicable to an action to determine claims where the foreclosure was void or voidable; and by all other provisions of law and rules of practice applicable to actions to foreclose mortgages on real property. The people of the State of New York may be made party to an action to foreclose a tax lien or transfer of tax lien in the same manner as a natural person. Where the people of the State of New York or the town is made a party defendant, the complaint shall set forth, in addition to the other matters required to be set forth by law, detailed facts showing the particular nature of the interest in or the lien of the people of the State of New York or the town on the real property involved and detailed facts showing the particular nature of the interest in or the lien on such real property which plaintiff has reason to believe that the people of the State of New York or the town has or may have in such real property, and the reason for making the people of the State of New York or the town a party defendant. Upon failure to state such facts the complaint shall be dismissed as to the people of the State of New York or the town. Separate transfers of tax liens against the same lot or against two or more lots or parcels of land may be foreclosed in one action. In the event that any defendant to such an action desires to have the action severed, an order to that effect may be granted upon due notice to the plaintiff and continued as to such defendant or defendants under such conditions as the court may provide, or the complaint dismissed as to such defendants, but without costs; or the action may be served on the application of the plaintiff as to one or more defendants upon due notice to such defendants as to whom the severance is sought who have appeared but upon such conditions as the court may provide, or the complaint dismissed as to such defendants but without costs.

2. In any tax lien or transfer of tax lien foreclosure brought by or on behalf of the town where the property affected thereby has either prior or subsequent to the date of the lien being foreclosed been sold for any lien against the same and all back taxes and assessments due at the time of such sale are not paid within 35 days after the date of such sale, the town shall not be required to give notice to redeem prior to the institution of such action to foreclose.
3. In all cases where the town is the plaintiff it shall be entitled to the appointment of a receiver of the rents and profits of the property being foreclosed, and application for such appointment may be made ex parte. On such application, the court shall appoint the receiver of taxes of the town in which the property is situate as the receiver of the rents and profits and such receiver shall serve without any additional fee or compensation and without giving any additional security other than the security he shall be required to give as the receiver of taxes.
4. A description of the property by section, block, lot, subdivision or other description, as shown on the tax map, used in the tax rolls and shown in the tax lien or transfer of tax lien shall be sufficient for such foreclosure.
5. The referee or other official making the sale shall sell each tax map, tax roll or tax lien or transfer of tax lien parcel separately, except that he may sell adjoining parcels with a frontage of not to exceed 75 feet in width on the street front together or where such parcels have been

used and/or occupied as one plot or parcel by one owner, but the court in and by the judgment may direct such other or different method as may seem just and proper.

6. The referee or other official making the sale may insert such additional description in the deed as to him shall seem proper for convenience of record identification.
7. The attorney for the plaintiff in the foreclosure of a tax lien or transfer of tax lien shall append to the notice of sale the approximate amount, including penalties and interest due for unpaid real property taxes and assessments, including the amount due on the tax lien or transfer of tax lien being foreclosed, which is a lien against the premises so being sold.
8. The terms of sale shall contain or have appended to and made a part thereof an itemized statement of the amount of all tax liens and penalties due and chargeable against the property to be sold.

Sec. 283.501. Pleading transfer of tax lien.

[§ 569 of the Laws of 1948, Ch. 852]

Whenever a cause of action, defense or counterclaim is for the foreclosure of a tax lien, or is in any manner founded upon a tax lien or a transfer of tax lien, the production in evidence of an instrument executed by the supervisor, in the form prescribed in section 283.421 for a transfer of tax lien subscribed by or on behalf of the supervisor, shall be presumptive evidence that the lien purported to be transferred by such an instrument was a valid and enforceable lien and that it has been duly assigned to the purchaser, and it shall not be necessary to plead or prove any act, proceeding, notice or action preceding the delivery of such transfer of tax lien nor to establish the validity of the tax lien transferred by such transfer of tax lien. If a party or person in interest in any such action or proceeding claims that a tax lien is irregular or invalid, or that there is any defect therein, or that a transfer of tax lien is irregular, invalid or defective, such invalidity, irregularity or defect must be specifically pleaded or set forth, and must be established affirmatively by the party or person pleading or setting forth the same.

Sec. 283.511. Judgment upon tax lien.

[§ 570 of the Laws of 1948, Ch. 852]

In every action for the foreclosure of a tax lien, and in every action or proceeding in which a cause of action, defense or counterclaim is in any manner founded upon a tax lien or transfer of tax lien, such transfer of tax lien and the tax lien which it transfers shall be presumed to be regular and valid and effectual to transfer to the purchaser named therein a valid and enforceable tax lien. Unless in such an action or proceeding such tax lien or transfer of tax lien be found to be invalid, it shall adjudged to be enforceable and valid for the amount thereof and the interest to which the holder may be entitled.

Sec. 283.521. Judgment of foreclosure of tax liens.

[§ 571 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

1. In an action to foreclose a tax lien, unless the defendants obtain judgment, the plaintiff shall be entitled to a judgment establishing the validity of the tax lien and of the transfer of tax lien, so far as the same shall not be adjudged invalid, and directing the sale of the real property affected thereby or such part thereof as shall be sufficient to discharge the tax lien or such items thereof as shall not be adjudged invalid, and the interest thereon and all other accrued taxes, assessments and water rents affecting the real property, together with the expenses of the sale and the costs of the action, except that the fees and/or allowances to a referee or other official appointed to compute shall not exceed \$10.00 unless there are five or more tax parcels in the action, in which event the allowance shall not exceed \$20.00, and the fee and/or allowance to the referee or other official appointed to sell shall be at not to exceed the rate allowed to the referee appointed to compute.
2. Costs in any foreclosure action brought under the provisions of this chapter shall be in the discretion of the court, but in no event shall such costs exceed the sum of \$20.00 unless there are five or more separate tax parcels included in one action in which event the costs shall not exceed \$40.00. The award of costs in any action shall carry with it the right to recover taxable disbursements, together with such amount as the court shall allow for authorized searches not to exceed \$10.00 for each tax parcel included in the action.
3. The judgment of foreclosure shall direct the payment of (1) the costs, disbursements and expenses of the foreclosure action; (2) all taxes and special district assessments, school taxes and penalties payable to the receiver of taxes under this chapter, also all tax liens or transfers of tax liens for same which are a lien against the premises so sold subsequent to the taxes or assessments covered by the lien so foreclosed or that the tax parcel be sold subject thereto and if sold subject thereto the notice of sale shall state the approximate amount thereof including penalties and interest; (3) all taxes and assessments, including school taxes or interest acquired from the sale of a tax lien or liens or lease of the premises for the same, which are still unpaid and due and owing to the town as of the date of the taxes for which such tax lien has been sold, or that the tax parcel be sold subject thereto and if sold subject thereto the notice of sale shall state the approximate amount thereof including penalties and interest; (4) and the amount of the transfer of tax lien foreclosed with interest thereon.
4. In the event that the town is the plaintiff, the holder of any town tax lien affecting the tax parcel sought to be sold shall be made a party to the action. The property affected by any tax lien so being foreclosed by the town shall be sold free and clear of all town tax liens and/or taxes due or owing the town for state, county and town and school taxes and special district assessments and the proceeds of such a sale after paying the costs and disbursements as herein provided, shall be applied to the cancellation of all such taxes and special district assessments or tax liens therefor as follows: (1) to the payment of all town tax liens subsequent to the original town tax lien being foreclosed; (2) to the payment of all other tax liens owned or held by the town; (3) to the payment of all other town tax liens, in the inverse order of the dates of the liens of such taxes or assessments.
5. The judgment of foreclosure and sale shall also recite the transfer of the tax lien and each assignment thereof and unless such transfer of tax lien and each assignment thereof has been

duly recorded in the office of the County Clerk the same shall be attached to and form a part of the judgment.

6. In the event that the owners of two or more parcels are joined as defendants, the judgment of foreclosure and sale shall provide for an equitable division of the costs and disbursements as against each parcel to be sold as in said judgment provided.
7. The plaintiff in any action to foreclose any tax lien or his attorney, shall file with the receiver of taxes a copy of any judgment entered with a notice stating the date of its entry, and the receiver of taxes shall keep a record of the judgments of foreclosure filed with him and a notice upon the margin of the record of sale and upon the copy of the transfer of tax lien in his office the date of entry of such judgment of foreclosure.

Sec. 283.531. Effect of judgment foreclosing tax lien.

[§ 572 of the Laws of 1948, Ch. 852]

Every final judgment in an action to foreclose a tax lien shall be binding upon each defendant upon whom the summons is served or who appeared in the action either in person or by attorney; each person claiming from, through or under such a defendant by title accruing after the filing of notice of pendency of the action or after the entry of the judgment and filing of the judgment roll in the proper County Clerk's office; and each person not in being when the judgment is rendered, who afterward might have become entitled to a beneficial interest attaching to, or an estate or interest in such real property or any portion thereof, provided that the person through whom such party might be entitled to such beneficial interest, estate or interest is a party to such action or bound by such judgment. Every conveyance upon a sale pursuant to such judgment shall transfer to and vest in the purchaser all the right, title, interest and estate in the real property affected by such judgment of the plaintiff, subject if the town is not the plaintiff, to the taxes and assessments provided for in subdivisions 2. and 3. of the preceding section, if the property is sold subject thereto as in said subdivisions provided. In the event that the town is not the plaintiff and the property is not sold subject to the taxes and assessments as provided in subdivisions 2. and 3. of the preceding section, and the amount bid at such foreclosure sale is not sufficient to pay the taxes, assessments, interest and penalties due the town, then the conveyance shall be made subject to the lien of the same after deducting the amount actually paid on account thereof in connection with such sale, but the Town Board may after such sale direct that the whole or any part of such taxes, interest and penalties be cancelled, if it finds the total thereof exceeds the fair value of the property so sold. So much of Section 217 of the Civil Practice Act as requires the court to allow a defendant to defend an action after final judgment shall not apply to an action to foreclose a tax lien. Delivery of the possession of real property affected by a judgment to foreclose a tax lien may be compelled in the manner prescribed in section 985 of the Civil Practice Act.

Sec. 283.541. Surplus.

[§ 573 of the Laws of 1948, Ch. 852]

Any surplus of proceeds of sale after paying the expenses of sale and the costs and disbursements, together with the payments as provided in this chapter, must be paid into court for the use of the person or persons entitled thereto, and the judgment shall provide that if such surplus remains in court for a period of upwards of three months and no application has been made therefor that the same may be invested for the benefit of the person or persons entitled thereto.

Sec. 283.551. Agreement between municipalities as to tax liens.

[§ 574 of the Laws of 1948, Ch. 852]

1. In the event any town shall be the owner of any tax lien on property upon which another town or village shall also have a lien for unpaid taxes and/or assessments, it shall be lawful for such towns or villages by resolution of their respective governing bodies to enter into an agreement whereby any one or more of such tax liens may be foreclosed and upon a sale of the property in foreclosure the same shall be sold free and clear of town, school and village taxes and any assessments which are a lien on such premises on or prior to the date of sale and the proceeds of sale after paying the costs and expenses of sale, and all taxes and assessments which became a lien against the property subsequent to the sale in the foreclosure, if insufficient to pay all other taxes and assessments in full, shall be divided between such towns and villages proportionately to the amount due each as of the day of sale.
2. In the event such an agreement is entered into, the affidavit of regularity shall so state and a copy of such agreement shall be attached thereto, whereupon, notwithstanding anything in this chapter to the contrary, the judgment shall refer to such agreement and provide for the sale of such premises free and clear of all town, school and village taxes and any assessments which are a lien on said premises on or prior to the date of sale, and for a division of such proceeds as in such agreement and this chapter provided.

Sec. 283.561. Reimbursement for defective tax liens or transfers of tax liens.

[§ 575 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If a transfer of tax lien be vacated or be set aside or cancelled, or if it be adjudged in any action that a transfer of tax lien is invalid or defective, or not sufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a tax lien it be adjudged that the entire tax lien is void and not a valid lien on the premises which it purports to affect, and that the complaint be dismissed, the purchaser may surrender such transfer of tax lien, together with a certified copy of such judgment or decree, to the supervisor and thereupon shall be repaid by the town the amount paid for such transfer of tax lien, with interest from the time of such payment at the rate set forth in the transfer of tax lien, but at not more than three per centum per annum, and the town shall pay the taxed costs and disbursements of any action or proceeding in which such adjudication is made. But no such payment shall be made unless the application therefor is made within five years from the date of such tax lien.

Sec. 283.571. Reimbursement when part of tax lien is defective.

[§ 576 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If, in any action to foreclose a tax lien, it shall be adjudged that some, but not all, of the items constituting such tax lien are void and not a valid lien on the premises covered by such tax lien, or if, in the action or proceeding, it be adjudged that a transfer of tax lien is invalid or defective, as to some, though not as to all, of the items transferred, the holder of the transfer of tax lien, by instrument in writing duly acknowledged, shall retransfer to the town the items thus affected and shall be repaid by the town such portion of the amount paid for such transfer of tax lien as may be applicable to the items thus affected, with interest from the time of such payment at the rate set forth in the transfer of tax lien, but at not more than three percentum per annum, and the town shall pay the taxed costs and disbursements of any action or proceeding, other than an action to foreclose the tax lien, in which such adjudication is made. But no such payment shall be made unless the application therefor is made within five years from the date of such tax lien.

Sec. 283.581. Repurchase of defective transfers of tax lien by town.

[§ 577 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If the holder of a transfer of tax lien shall present an affidavit to the supervisor whereby it appears that such a transfer of tax lien is invalid, defective or insufficient or that some items therein are void and not a valid lien on the premises covered by such transfer of tax lien, then the supervisor, after a reasonable investigation and determination that such transfer of tax lien is invalid, defective or insufficient in whole or in part and upon the authorization of the town board, may repurchase such transfer of tax lien or items in such transfer of tax lien with interest thereon up to the date of such repurchase at the rate set forth in such transfer of tax lien but at not more than three percentum per annum. But no such repurchase shall be made unless the application therefor is made within five years from the date of such transfer of tax lien.

Sec. 283.591. Owners may question transfers of tax liens.

[§ 578 of the Laws of 1948, Ch. 852]

Any person interested in or holding a lien upon any real property affected by an unpaid tax lien or transfer of tax lien, may file a written notice with the supervisor claiming that such transfer of tax lien is invalid or defective or that such tax lien which has been transferred pursuant to this chapter or which is advertised to be transferred is invalid, defective, void or ineffectual or should be vacated or set aside. The supervisor shall examine into the facts and proceedings resulting in the tax lien or transfer of tax lien mentioned in such notice; before a determination is had the supervisor shall serve a copy of such notice upon the holder of the transfer of a tax lien which is thus questioned or which transfers the items thus questioned and shall give such holder an opportunity to be heard. The supervisor, if he concludes that a defense in an action to foreclose the tax lien would succeed in whole or in part, shall so certify to the town board, and shall recommend what action shall be taken by the town concerning the same. If the town board shall by resolution conclude that such defense would succeed in whole or in part and recommend repayment by the town of the amount or a portion of the amount paid for a transfer of a tax lien which would be applicable to any item, and if it be approved by the supervisor, the town shall require the surrender of the transfer of tax lien or the retransfer to it of the item or items of such

tax lien which are found to be void or defective and shall make repayment therefor in the same manner as if such transfer of tax lien, tax lien or items have been adjudicated in the manner provided in sections 283.561 and 283.571. Neither the provisions of this section nor any act or proceeding thereunder shall impair or in any other manner affect the rights or remedies of any person interested in, or holding any lien upon, real property to question the validity of any tax, assessment, water rents or tax liens, or any part or item of any tax lien.

Sec. 283.601. Supervisor to protect interest of the town.

[§ 579 of the Laws of 1948, Ch. 852]

No claim shall be made against the town under sections 283.561 and 283.571 by the holder of any tax lien, or transfer of tax lien, unless action to foreclose the tax lien or transfer of tax lien upon which such claim is founded be commenced within five years from the time of the sale resulting in such transfer of tax lien; nor shall any claim be made against the town under said sections unless, within ten days after the commencement of any action or proceeding to vacate, set aside or cancel a tax lien or transfer of tax lien, or an item mentioned in a tax lien or transfer of tax lien, or within ten days after the service of any pleadings or other paper in an action or proceeding in which any tax lien or transfer of tax lien, or item mentioned in a tax lien or transfer of tax lien, is brought into question, sought to be set aside, vacated or cancelled or which sets forth or pleads any defense to an action to foreclose a tax lien or transfer of tax lien, a notice in writing is served upon the supervisor of the town setting forth the question or objection raised to the best knowledge of the holder of the tax lien or transfer of tax lien, or his attorney-at-law, and demanding that the town take up the prosecution or defense of the action or proceeding. All proceedings in such action or proceeding shall be stayed for 30 days or such shorter time as the supervisor, or the attorney, representing him, shall stipulate in writing. It shall be the duty of the supervisor to examine, or cause to be examined the questions raised, and, in order to protect the interests of the town, the attorney for the town shall have the right to be substituted for the attorney of record of the holder of the tax lien or transfer of tax lien, or to appear as attorney of record for the holder of any such tax lien or transfer of tax lien, to conduct or defend any such action or proceeding in the name of the holder of the tax lien or transfer of tax lien, and to bring any other action or proceeding for, on behalf of and in the name of the holder of such tax lien or transfer of tax lien as he may deem advisable, to take appeals and to argue appeals taken by the adverse party as he may deem advisable. It shall be the duty of the supervisor to protect the interest of the town in all matters, actions and proceedings relating to tax liens and transfers of tax liens; to intervene on behalf of the town or of the holder of a tax lien or transfer of a tax lien in, or to make the town a party to, any action in which he believes it to be to the interest of the town so to do, by reason of any matter arising under or relating to any tax lien or transfer of tax lien, or advertisement of sale of tax liens. In any action or proceeding in which the attorney for the town pursuant to this section shall be substituted, or shall appear, it shall be without expense to the holder of the tax lien or transfer of tax lien, or advertisement of sale of tax liens. In any action or proceeding in which the attorney for the town pursuant to this section shall be substituted, or shall appear, it shall be without expense to the holder of the tax lien or transfer of tax lien, and all costs recovered on behalf of such holder of a tax lien or transfer of tax lien in any action or proceeding conducted or defended by such attorney shall belong to the town and shall be collected, applied and disposed of in the manner as are other costs recovered by the town.

Sec. 283.611. Purchase and sale of tax lien property.

[§ 580 of the Laws of 1948, Ch. 852]

1. Upon the foreclosure of any tax lien or transfer of a tax lien held by the town, the supervisor shall have the right to bid in and take title on behalf of the town, of the property so sold, provided always that the amount of the bid does not exceed the amount it would be necessary for the property to bring in order to protect the interest of the town, after paying all previous charges in accordance with the terms of the judgment.
2. The town board shall have the right and is hereby authorized to grant by resolution easements to the owner or owners of abutting properties in, over, under and across any such lands, property and real estate which may have been heretofore or may hereafter be so acquired by the town.
3. The supervisor shall sell, either at public or private sale, as the town board may by resolution direct, and upon such terms and conditions and for such sum or sums as the town board shall by resolution approve, fix and determine, any property or any part or parts thereof acquired by the town by reason of any tax lien or transfer of tax lien and convey title thereof in the name of the town. Deeds and conveyances thereof shall be by bargain and sale deed without covenant against grantor and shall be executed on behalf of the town by the supervisor. Upon any such sale the supervisor, when so authorized by resolution of the town board, shall have the right and is hereby authorized to take back in the name of the town a purchase money bond and mortgage or bonds and mortgages as a part of the consideration therefor in an amount or amounts not to exceed 60 percent of the sale price and upon such terms and conditions as may be authorized and fixed by resolution of the town board and in enforcing the lien of any such mortgage the town shall have and be entitled to all the same rights and remedies as an individual or private corporation under the provisions of the Real Property Law and the Civil Practice Act and Rules of the State of New York.
4. Any such property may be sold on an installment contract of and, in that event the property so sold shall be assessed on the next succeeding tax roll. Upon any property so sold the contract of sale shall provide that the purchaser, in addition to making the installment payments, shall pay as they become due all taxes and assessments so assessed. The town shall not permit the subordination of any mortgage it may hold or subsequently acquire.

Sec. 283.621. Defective or invalid transfer of tax lien; proceeding anew.

[§ 581 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

If a transfer of tax lien be vacated or be set aside or cancelled or if it be adjudged that a transfer of tax lien is invalid or defective, or insufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a transfer of tax lien it be adjudged that a transfer of tax lien is not a valid lien on the premises which it purports to affect because of some irregularity in the proceedings had, and if, in pursuance of any such adjudication, the purchaser of said transfer of tax lien shall have surrendered such transfer of tax lien to the supervisor and shall have been

repaid by the town the amount paid for such transfer of tax lien, with interest at a rate of not more than three percentum per annum and costs and disbursements of the action or proceeding in which such adjudication was made or, if the town shall repurchase the transfer of tax lien in the manner provided in section 283.581 hereof, the tax lien which was purported to be transferred and assigned in such transfer of tax lien shall remain as a valid lien upon the premises which it affects, except to such extent as it may have been adjudged irregular or invalid, and the supervisor shall proceed to sell anew, as provided in section 283.391 of this chapter, so much of the said tax lien as is not invalid as if no prior sale purporting to transfer the said tax lien had taken place. Such sale of the tax lien so surrendered or repurchased shall be made at the next ensuing tax sale and shall be labeled or designated in such tax lien sale as resale of lien.

Sec. 283.631. Delivery of duplicate in case of lost transfer of tax lien.

[§ 582 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

Whenever any transfer of tax lien given by the supervisor as in this chapter provided shall be lost, the supervisor may receive evidence of such loss and on satisfactory proof of the fact may execute and deliver a duplicate to such person or persons who shall appear entitled thereto, and may also, in his discretion, require a bond of indemnity to the town. Such bond of indemnity shall be issued by a surety company authorized to do business in the State of New York and shall be approved by resolution of the town board as to its form and sufficiency.

Sec. 283.641. Collection of tax.

[§ 583 of the Laws of 1948, Ch. 852; amended by L.L. No. 1-1966]

1. Notwithstanding any general, special or local law to the contrary, whenever any tax or local assessment levied or assessed upon or against the property of any persons, copartnership or corporation, public or private, except a municipal corporation, with the fees, penalties, additions and expenses, which by this chapter have been added thereto, shall at any time remain unpaid, such unpaid tax or assessment shall become the personal liability of the owner of the property, and the supervisor shall, when directed by the town board, maintain an action in the name of the town against the owner or owners of such property for the amount of such tax, penalties, interest, fees, additions and expenses remaining unpaid and uncollected for more than one year upon or against the property of any person, copartnership or corporation, public or private, except a municipal corporation, liable for such tax or assessment, or the representatives of such person, copartnership or corporation, public or private, in the County Court or in the Supreme Court of the Ninth Judicial District, with like effect as in civil actions generally under the Civil Practice Law and Rules, with the right to institute supplementary proceedings upon such judgment irrespective of the amount of the judgment recovered. The amount collected by any such action or proceeding shall be used and applied by the receiver of taxes in the same manner as if the same had been collected by the sale of real estate under the provisions of this chapter relating to unpaid taxes. The warrant delivered to the receiver of taxes shall be presumptive evidence that all previous proceedings, including the assessing and levying of the tax or assessment, were regular and according to law. A judgment in such action in favor of the town shall not release or in any manner affect the lien of any tax or assessment until such judgment is satisfied, and nothing in this section shall be construed or held to repeal

or abridge any other remedy or power given for the collection of taxes or assessments on behalf of any town in the County of Westchester.

2. Real property owned by a municipal corporation shall not be sold or conveyed by foreclosure or otherwise for the nonpayment of any tax or special assessment. Any tax or special assessment validly levied or charged against real property owned by a municipal corporation shall be paid in the same manner as a general municipal charge. Notice of claim, setting forth the nature and amount of the tax and a tax map description of the property against which the tax is levied, must be served on the municipality owning the real property within 30 days after the same became a lien, by delivery of such notice of claim, personally or by mail, to the chief executive officer or clerk of said municipal corporation or such tax or assessment shall be deemed invalid. For the purposes of this section, a tax bill, containing the information above required for such notice of claim, shall be deemed a notice of claim. If any such tax or special assessment remains unpaid for more than 60 days after service of said notice of claim as hereinbefore set forth, payment may be enforced by a proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules. No penalty or interest shall accrue on said claim until the expiration of 60 days from the service of said notice of claim. Any proceeding brought under this section to enforce such a claim shall be commenced within one year and 60 days from the service of said notice of claim and shall be an exclusive remedy for the enforcement of said claim. If the municipal corporation owning the real property determines that the value thereof is insufficient to justify payment of the tax or special assessment levied thereon, in lieu of payment it may consent to an order directing sale of the property at public auction on such notice as the court may order to satisfy the claim.

Sec. 283.651. Collection of water rents.

[§ 584 of the Laws of 1948, Ch. 852]

Whenever an incorporated village in the county, having a population of less than 5,000 as determined by the federal census, or a water district in any town in the county, established pursuant to the provisions of the Town Law, shall, pursuant to the provisions of the Village Law or pursuant to the provisions of the Town Law, sell water to an individual or corporation outside such village, or water district, the board of water commissioners of such village may direct the village clerk, or the board of water commissioners of such water district may direct its clerk or superintendent, to file with the supervisor of the town in which the premises to which such water is supplied are situated a verified statement of the amount of unpaid rents for water supplied to said premises with penalties thereon. Such statement shall be filed before February 15th in each year. Such statement shall contain a brief description of the property upon which the water was used, the names of the persons or corporations liable to pay for the same and the amount chargeable to each. The supervisor shall submit such statement to the town board which shall levy such sums against the property liable and shall collect the same in the same manner as town taxes and shall state the amount of such water rent in the annual tax roll of said town in a separate column under the name of "village water rent" or "district water rent," as the case may be. Upon the filing of such statement and the entry thereof on said tax roll the amount of such water rents and penalties shall constitute a lien upon said premises, on a parity with the lien of taxes and assessments extended on such roll and shall be entitled to all the rights and subject to

all provisions affecting such taxes and assessments. Such water rents, and the penalties thereon, shall, when collected, be paid and delivered to the board of water commissioners of such village or of such water district. All of the provisions of this chapter covering the enforcement and collection of unpaid taxes and assessments not inconsistent herewith, shall apply to the collection of such unpaid water rent.

Sec. 283.661. Other remedies to collect taxes not affected.

[§ 585 of the Laws of 1948, Ch. 852; amended by the Laws of 1962, Ch. 386]

The actions to enforce personal liability and the foreclosure actions herein provided for are in addition to the other methods provided for the collection of taxes by the towns of the County of Westchester, including procedure for the collection of delinquent taxes under Article II, Title 1 of the Real Property Tax Law and not dependent upon them or any of them or any step thereof, nor is any other method which by any other statute is available to a town for the collection of taxes dependent on any of the provisions of this chapter.

Sec. 283.671. Legislative intent.

[§ 586 of the Laws of 1948, Ch. 852]

No act done or right accruing, accrued or acquired, nor any penalty or forfeiture incurred, prior to the time when this chapter takes effect, shall be affected or impaired by virtue of the repeal of any act by this code as hereinafter specified; but such right, penalty or forfeiture may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been enacted. No tax liens heretofore issued nor any tax sale heretofore had shall be affected by this chapter, but the rights of all persons with respect thereto shall be the same as if this chapter had not been enacted, except as in this chapter otherwise specifically provided, and all actions, suits, proceedings or prosecutions pending when this chapter takes effect may be prosecuted and defended to final determination in the same manner as they might prior to the effective date of this chapter. For the purpose of determining their effect on any other provisions of any other law heretofore enacted similar to the provisions herein contained, and by this code repealed, the provisions of this chapter shall not be construed as having been enacted or reenacted at the time of the effective date of this chapter, but as having been enacted as of the various times when such similar provisions were first enacted by the legislature. The true purpose and intent of this section is to prescribe that so far as the provisions of this chapter are a substantial reenactment of the Laws of 1916, Ch. 105, as amended, or of any other special tax law applicable only to the County of Westchester, they shall be of the same force and effect hereunder as they were before the enactment hereof.

APPENDIX C

Status of Lawsuits filed against the County Administration by certain members of the County Board or the entire County Board since 2010.

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Lawsuit Regarding raising the Day Care Parent Share cost to 35% (Judge Neary)

KENNETH W. JENKINS, in his Individual capacity and in his capacity as a Westchester County Resident and Taxpayer, Chairman and Member of the Westchester County Board of Legislators; LYNDON WILLIAMS, in his Individual capacity as in his capacity as Westchester County Resident and Taxpayer, and Westchester Vice-Chairman and Member of the Westchester County Board of Legislators, and PETER HARCKHAM, in his Individual Capacity and in his capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators; and MARY JANE SHIMSKY in her Individual Capacity and in her capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators, v. ROBERT P. ASTORINO, in his Individual capacity and as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, KEVIN McGUIRE, in his Individual capacity and as the Commissioner of the Department of Social Services, and GLADYS CARRION, in her official capacity as Commissioner of the New York State Office of Children and Family Services.

Westchester County, through the Westchester County Department of Social Services (“DSS”) provides a day care subsidy program for low income families. Such program provides financial assistance for day care to eligible low income families to enable a parent or caretaker to work at a job leading to self-sufficiency or to participate in DSS mandated employment related activities while their child is attending a day care facility. In addition to the financial assistance for day care through DSS, each recipient is required to pay a portion of their income or a weekly “family share” toward the cost of day care for their child[ren]. In establishing the family share for Westchester County, the County must select an appropriate percentage from 10% to 35% of a recipient’s income to use in calculating the family share for day care costs.

In December 2011, the Westchester County Board of Legislators (“County Board”) passed and subsequently overrode County Executive Astorino’s veto of the County Board’s addition of \$4.3 million dollars to the family share lines of the 2012 County Budget Act for fiscal year 2012 thereby establishing the County Board’s policy with respect to maintaining the family share for day care for eligible families at 20% of a recipient’s income. The County Board also passed and overrode County Executive Astorino’s subsequent veto of an accompanying Act to the 2012 Budget Act, Act 2011-191, which mandated among other things, that “no changes to policies, programs and services contained in the finally adopted budget shall take place without the prior approval of the County Board of Legislators....” Notwithstanding the foregoing, in February and March of 2012, the County Executive and DSS Commissioner McGuire announced that budgeted funds would not be adequate to meet projected child day care demand during 2012, and an increase in the family share percentage to 35% would be necessary to continue the child day care subsidy program for the duration of year 2012.

This action, filed in May of 2012, challenges the Administration’s attempt to increase the day care parent share cost for eligible low income County residents from 20% to 35% without the approval of the County Board and in violation of the 2012 finally adopted County Budget. Plaintiffs

sought and the Court issued a temporary restraining order (“TRO”) which prevented the increase in the family share to 35%. The TRO was subsequently lifted when the Court issued a decision granting the Defendants’ motion to dismiss the lawsuit. The Defendants argued that the DSS Commissioner had unbridled discretion to raise the family share rate without County Board approval and that the County Board could not set the rate by budget act. Plaintiffs’ opposed said motion to dismiss on the basis that the County Board, a necessary party, was not a party to the action and, consequently, the Court lacked jurisdiction to pass on the validity of any part of the 2012 finally adopted County Budget much less the act setting the childcare share rate at 20%. The County Board subsequently filed a non-party motion to vacate the decision. The motion is pending.

Plaintiffs appealed the decision and obtained a TRO from the Second Department when Defendants again attempted to raise the rate effective November 1, 2012. While that TRO was eventually lifted, the appeal is still pending and the childcare rate remained at 20% through the end of 2012 because of Plaintiffs’ actions.

Lawsuit Regarding Failure to Accept Applications for Childcare Assistance (Judge Hubert)

In the Matter of KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS v. ROBERT P. ASTORINO, in his individual capacity and in his capacity as Westchester County Executive, KEVIN McGUIRE in his individual capacity and in his capacity as Commissioner of the Westchester County Department of Social Services, and LAWRENCE SOULE, in his individual capacity and in his capacity as Westchester County Budget Director.

In December 2011, the County Board passed and subsequently overrode Respondent CE Astorino’s veto of the County Board’s addition of \$3.5 million dollars to the “Indirect Social Services” line and \$800, 000 to the “Daycare” line of the County Budget Act for fiscal year 2012 (“2012 Budget Act”). In February and March of 2012, Respondent Astorino and Respondent McGuire announced that the budgeted funds would not be adequate to meet projected child day care demand during 2012. Consequently, the County Board Committee on Community Services met with Respondent McGuire, DSS representatives, and the Respondent Budget Director on several occasions to review concerns on the adequacy of funding of the child day care subsidy program for fiscal year 2012. Committee discussion noted the possibility of additional revenue to alleviate a potential funding shortfall in childcare funding such as: 1. unaccounted revenue from the Child Care Block Grant and 2. any other surplus funds available to DSS from unaccounted revenue in the finally adopted 2012 Budget Act which could be transferred to DSS. Respondent Budget Director had advised the County Board that DSS was forecasting a \$7,519,423 Relief appropriation surplus. Notwithstanding the foregoing, by Public Notice dated September 18, 2012, DSS advised potential applicants for day care subsidies that except for cases in the “guaranteed categories,” no new applications for day care subsidies would be accepted after September 18, 2012, due to lack of funding. As a result of raising the daycare family share percentage, qualified applicants for child care subsidies would very well be unable

to obtain affordable day care and, consequently, it would be necessary for such applicants to stop working to care for their children and possibly be required to apply for public assistance.

This action filed in September of 2012, challenges the Administration's attempt to cut off any new applications for childcare assistance effective November 1, 2012 on the basis that the program was out of money even though the Social Services 2012 Budget contained approximately \$5 million in surplus funds that could be transferred to cover any purported shortfall. Plaintiffs sought and the Court issued a TRO which prevented DSS from refusing to accept day care subsidy applications which remains in place. Defendants moved to dismiss the lawsuit on the basis that the DSS Commissioner has unbridled discretion to use DSS funds as he sees fit. Plaintiffs opposed the motion to dismiss in essence based upon the Laws of Westchester County ("LWC") and New York State ("NYS") County Law which provide in part that the County Board has powers with respect to the administration of social services and public assistance and care and that the DSS Commissioner is required to perform duties as directed by the County Board. The motion papers were fully submitted. By Notice of Discontinuance dated January 10, 2013, this matter was discontinued by Plaintiffs. It was discontinued because the issue involved the failure to accept new applications for day care subsidies in 2012, therefore, since the 2012 calendar year has passed, the issue in this matter is now moot.

Lawsuit regarding Capital Projects (Judge Hubert)

KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS, ROBERT P. ASTORINO, in his capacity as Westchester County Executive and LAWRENCE SOULE in his capacity as Budget Director.

On or about November 9, 2010, the County Executive filed his proposed 2011 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations in accordance with LWC Section 167.81. On December 6, 2010, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed County Budget pursuant to LWC section 167.81. Included in the Memorandum of Additions were various new capital projects. On December 10, 2010, the County Board passed the 2011 County Budget authorizing the capital projects added by the Board in accordance with LWC 167.101(1). After presentation of the Budget Acts to the County Executive, on December 14, 2010, the County Executive issued approximately 260 line item vetoes to the County Budget, including vetoes of the capital projects added by and subsequently authorized by the County Board. On December 23, 2010, the County Board overrode approximately 246 of the County Executive's vetoes including his vetoes of the capital projects added by and subsequently authorized by the County Board by a two-thirds majority, thereby enacting the finally adopted 2011 County Budget Act. In the past, there has been no objection by the County Executive to the County Board adding capital projects to the proposed capital budget and authorizing them in a similar manner. On January 18, 2011, the Westchester County Attorney issued a formal opinion in which he opined that, among other things, because the County Board did not follow the process that County "departments",

“institutions”, “offices” and “agencies” must follow according to the LWC, to have their capital projects considered by the County Executive for inclusion in his proposed budget and subsequently authorized by the County Board during the County Budget process, the capital projects added by and subsequently authorized by the County Board could not be included in the 2011 Capital Budget Act. In essence, the County Attorney believes that the County Board is required to follow the same process as other departments, agencies and offices in order to add capital projects to the County Executive’s proposed Budget, while the County Board believes that as a separate coequal branch of government, they would not be required to follow such process and need only add capital projects into the County Boards’ Memorandum of Additions, that if not deleted by the full County Board or vetoed by the County Executive, would be a part of the Capital Budget. The County Executive and Budget Director, relying on the County Attorney’s Opinion did not acknowledge, initiate¹ and/or proceed with any of the capital projects added by and subsequently authorized by the County Board in the 2011 County Budget Act. Moreover, the Budget Director did not include any of the capital projects added by and subsequently authorized by the County Board in the 2011 Capital Budget Act to the printed 2011 Capital Budget book.

On or about November 15, 2011, the County Executive filed his proposed 2012 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations. Similarly with regard to the 2012 County Budget, on December 5, 2011, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed 2012 County Budget, which included various new capital projects. On December 8, 2011, the County Board passed the 2012 Westchester County Budget authorizing the capital projects added by the Board, and on December 15, 2011, the County Executive issued approximately 29 line item vetoes to the 2012 County Budget. No capital projects added by the County Board were vetoed. On December 22, 2011, the County Board overrode the County Executive’s vetoes by a two-thirds majority, thereby enacting the finally adopted 2012 County Budget Act. The County Executive and Budget Director, relying on the County Attorney’s Opinion refused to acknowledge, initiate and/or proceed with any of the capital projects added by and subsequently authorized by the County Board in the 2012 Capital Budget Act. Moreover, the Budget Director did not insert any of the capital projects added by and subsequently authorized by the County Board in the 2012 Capital Budget Act to the printed 2012 Capital Budget.

Accordingly, this action filed in July of 2012, challenges the Administration’s failure to recognize the capital projects added by the County Board to the 2011 and 2012 finally adopted County Budgets. Defendants moved to dismiss the lawsuit on the basis that the County Board cannot add projects to the capital budget during the budget process, notwithstanding the fact that capital projects have consistently been added to proposed County Budgets in many years past. The County Board opposed the motion to dismiss the lawsuit on the basis that the court lacked jurisdiction to consider the validity of any of the capital projects because no action had been commenced against the County Board challenging their additions of capital projects to proposed

¹ All capital projects require approvals for planning, financing, etc., by appropriate County Boards, Committees and the County Board in accordance with New York State law and the Laws of Westchester County.

budgets as part of their additions to other portions of proposed budgets. The motion papers have been fully submitted and we are awaiting a decision.

Lawsuit regarding the Board of Acquisition and Contract (“Board of A&C”) (Judge Warhit)

KENNETH W. JENKINS, in his Individual capacity and in his capacity as a Westchester County Resident and Taxpayer, Chairman and Member of the Westchester County Board of Legislators, and Member of the Westchester County Board of Acquisition & Contract; LYNDON WILLIAMS, in his Individual capacity as in his capacity as Westchester County Resident and Taxpayer, and Westchester Vice-Chairman and Member of the Westchester County Board of Legislators, and PETER HARCKHAM, in his Individual Capacity and in his capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators, v. ROBERT P. ASTORINO, in his Individual capacity and as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, JAY T. PISCO, in his Individual capacity and as the purported Commissioner/Acting Commissioner of the Department of Public Works & Transportation and as a purported Member of the Westchester County Board of Acquisition & Contract, and ROBERT F. MEEHAN, in his Individual capacity and as Westchester County Attorney.

According to the LWC, the Board of A&C, consisting of the County Executive, the Commissioner of the Department of Public Works and Transportation (“DPWT”) and the Chairman of the Westchester County Board of Legislators (“County Board”), approves all County contracts except for contracts executed by the Bureau of Purchase and Supply and short form contracts under \$20,000 made by heads of Departments. On November 29, 2011, the County Board passed Local Law 4115-2011 (a/k/a “Local Law 6-2012”) and presented it to the County Executive pursuant to the LWC. Local Law 6-2012 amended, among other things, the LWC Section 161.01 changing the statutory composition of the Board of A&C by replacing the Commissioner of the Department of Public Works and Transportation (“DPWT”) with the County Budget Director and amended other sections of Chapter 161 of the LWC with respect to the operations of the Board of A&C. By correspondence to the County Board dated December 10, 2011, the County Executive vetoed Local Law 415-2011, and on December 22, 2011, the County Board overrode the County Executive’s veto. Given that Local Law 415-2011 changed provisions of the LWC relating to “public bidding, purchases or contracts,” it was subject to a referendum on petition (“permissive referendum”) pursuant to LWC Sections 209.171 and 209.181. No petition “signed and acknowledged by resident qualified electors of the county in number equal to at least ten per centum of the total number of votes cast for Governor at the last gubernatorial election in the county....” was filed with the Westchester County Board of Elections within 60 days of enactment of such law--- February 22, 2012 --- protesting Local Law 415-2011. Respondent/Defendants believe first that the Local Law is ineffective because the Local Law was subject to a mandatory rather than permissive referendum and further, while the County Board published notice that the Local Law was subject to a permissive referendum, the Board did not follow the requirements of a New York State Law regarding notice and publication for permissive referenda. To date, Respondent(s)/Defendant(s) have refused to

implement or comply with Local Law 6-2012 in its entirety and have allowed Respondent/Defendant Pisco, Commissioner of DPWT, to consider and/or vote on more than 50 million dollars of County contracts at A&C meetings held on March 1, 2012, March 8, 2012, March 15, 2012, and March 22, 2012 notwithstanding the written and verbal objections of the Petitioner(s)/Plaintiff(s).

This action filed in April of 2012, challenges the Administration's failure to enforce Local Law 6-2012 modifying provisions of the LWC concerning the operation of the Board of A&C. Defendants/Respondents moved to dismiss the action claiming the Local Law was not properly enacted and, consequently, they did not have to follow it. The Court denied the motion on the basis that it lacked jurisdiction to consider the Law's validity because the County Board, a necessary party because it was the body that enacted the law, was not a party to the action and no action had been commenced against such County Board challenging its purported failure to properly enact the Law. Consequently, the Court found that the Defendants did not have any defense to the action and directed them to submit an answer. Defendants submitted an answer and Plaintiffs' submitted a reply requesting all of the relief sought in their petition including a judgment compelling Defendants to comply with the Law. We are awaiting a decision.

Lawsuit regarding a cancelled Bus Route (Judge Neary)

KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS, v. ROBERT P. ASTORINO, in his capacity as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, JAY T. PISCO, in his individual capacity and as the purported Commissioner/Acting Commissioner of the Department of Public Works & Transportation, JOAN McDONALD, in HER official capacity as the Commissioner of the New York State DEPARTMENT OF TRANSPORTATION, and LIBERTY LINES TRANSIT, INC.

On or about November 15, 2011, the County Executive filed his proposed 2012 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations in accordance with the LWC. The proposed 2012 County Budget did not contain funding for the then existing Route 76 Bus Line. On December 5, 2011, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed County Budget and included an addition restoring funding for the Route 76 Bus. On December 8, 2011, the County Board passed the 2012 County Budget Act, and following presentation of the 2012 County Budget Act to the County Executive, on December 15, 2011, the County Executive issued approximately 29 line item vetoes to the 2012 County Budget, including a veto of the County Board's addition restoring funding for the Route 76 Bus Line. On December 22, 2011, the County Board overrode the County Executive's vetoes by a two-thirds majority thereby restoring funding for the Route 76 Bus Line and enacting the finally adopted 2012 County Budget Act. The County Board also passed and overrode Astorino's subsequent veto of an accompanying Act to the 2012 Budget Act, Act 2011-191, which mandated, among other things, that "no changes to policies, programs and services

contained in the finally adopted budget shall take place without the prior approval of the County Board of Legislators....” Notwithstanding the foregoing, Respondents/Defendants allowed the Route 76 Bus Line to be discontinued or cancelled and thereafter, allowed the Route 13 Bus Line to be amended to cover part of the discontinued or cancelled Route 76 Bus Line. No report was furnished to the County Board by Astorino concerning the renewal, extension or amendment of the Route 76 or 13 Bus Lines, nor was an Act published and passed by the County Board permitting the discontinuance of Route 76 and/or the modification of Route 13 to include portions of the Route 76 line, in accordance with LWC Sections 188.01 or 241.331.

Accordingly, this action was filed in August of 2012, challenging the administration’s failure to follow the process set forth in the LWC to modify a County bus route funded by the County Board in the finally adopted 2012 County budget. Only New York State filed any responsive papers moving to dismiss the action against them based on the fact that they are not a necessary party to the action. No decision on this motion has been received. The County Administration’s response has not been filed as yet based upon adjournments agreed to by the County Board and the County Administration. The action is pending.

Executive/Legislative
Relationship
Focus Group Report

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

EXECUTIVE-LEGISLATIVE RELATIONSHIP FOCUS GROUP REPORT

EXECUTIVE-LEGISLATIVE RELATIONSHIP FOCUS GROUP MEMBERS

Al Gatta, Chair
Gary Zuckerman, Vice Chair
Jeffrey Binder
Vinnie Restiano
Matt Thomas

MEETING DATES OF THE FOCUS GROUP WERE AS FOLLOWS:

November, 15 2011
January 20, 2012
February 28, 2012
March 27, 2012
May 15, 2012
June 26, 2012
September 27, 2012
December 20, 2012 (cancelled)
January 10, 2103 (no minutes taken-report discussed)

The focus group considered many issues involving the relationship between the executive and legislative branches. Some were later determined to be more appropriate for other focus groups to pursue. Others were raised and later addressed in a memorandum from Counsel, such as the enforcement by the executive branch of local laws enacted by the legislative branch, mandatory and permissive referenda, and defense and indemnification of County officers and employees. Such Memorandum is appended as Appendix "C."

After discussion of the many issues that might be brought before the full Commission, it was decided that the issues to be reported on by the Executive Legislative Focus Group would be as follows:

1. Consideration should be given to changing the structure of the County Government. Possible models include a change from the current structure of two branches, Legislative and Executive, where the Executive and Administration become one. Other models include maintaining the current form of two separate branches with the addition of a professional manager or administrator that would be appointed by the County Executive and approved by the County Board of Legislators with qualifications set forth either in the Charter or Administrative Code. Such professional may be either an independent title or a Deputy County Executive.

2. Consideration should be given to centralizing the property assessment functions within the County government and creating a County Assessment Office that would move toward standardizing all property record cards, updating data, establishing values in a uniform manner and perform the daily assessment duties now being performed in 25 separate taxing jurisdictions in the County. This can either be mandatory by County law or, as set forth in current Chapter 125 of the Charter with amendments to make the participation of municipalities voluntary;
3. Change the elected position of County Clerk to an appointed position;
4. The Charter should be amended to make the authority clear that the County Board of Legislators has the responsibility and duty to act on the appointments of all officials made by the County Executive which are subject to confirmation by the Board of Legislators within a specified time period, say 60-90 days. After this period, should the Legislators not act, the appointment would go into effect.
5. A process should be established for the periodic review of charter with structure and time interval to be determined.

Issue 1:

Conflicts between the legislative and executive branches of county government have grown more rancorous over the last few years, leading to an increasing inability to compromise on major issues and resulting in several lawsuits as summarized in an Appendix to this report. Although, some of this is endemic to both a two party system, reflecting an inherent tension between the legislative and executive branches, the Group took a broad look at the relationship before reviewing the structure of the County Government to determine whether a change in the "form" could improve the overall interaction and cooperation between the branches. (Minutes 11/15/2011).

Models reviewed included the following:

A. Combining the Legislative and Executive functions into a single County Board.

- A Chairman/Executive of the County Board could be elected at large by the entire county or, alternatively, could be chosen by the Board and exercise executive powers. He/she would be the Chief Executive Officer of the County.
- A professional Manager or Administrator would be appointed by the Chair/Executive, for a fixed term, subject to confirmation by the Board, to exercise daily operational/administrative powers and would be the Chief Operating Officer but not the Chief Executive.
- Appointment and removal may possibly be by a supermajority (majority + one). The powers inherent in this position would include appointment, budget preparation, budget execution, reporting and overall general administrative authority.

B. Maintaining the basic form of a County Executive and Board of Legislators but

- Creating the position of County Manager, County Administrator or First Deputy County Executive. The position would be filled by appointment by the County Executive, subject to confirmation by the County Board. Professional credentials for this position would be set forth in the Charter or Code;
- The officer would possess the powers inherent in the position of Chief Administrative or Chief Operating Officer;
- Consideration should be given to setting a fixed term for the appointment;
- Removal would be by the same method as appointment, with consideration given as to whether a supermajority would be required;

C. No Change

The Group researched several models within New York State and also outside. Some examples are the counties of Tomkins and Ulster and the City of Newburgh in New York and also Johnson County Missouri, a suburb of Kansas City comparable to Westchester.

Those interviewed included:

Dr. Gerald Benjamin	(1/20/2012)	Chairman of the Ulster County Charter Revision Commission and a professor at SUNY New Paltz
Marty Rogowski	(2/28/2012)	former County Legislator
George Latimer	(2/28/2012)	former Chairman of the Board of Legislators and current Assemblyman
John Nonna	(3/27/2012)	former County Legislator
Bill Ryan	(3/27/2012)	current County Legislator
Tom Abinanti	(5/15/2012)	former County Legislator and current Assemblyman
James Maisano	(5/15/2012)	current County Legislator

Note: No witnesses from the Executive Branch

Discussion:

There are advantages to combining the executive and legislative functions. The conflict between the two branches would be eliminated. The budget and other processes would move more smoothly. Legislators would have more ready access to department commissioners, since they would "work" for the legislative chairman as well as the executive branch.

The Group believes that the appointment of a professional manager could remove some, although not all, politics from daily decision making and separate the policy discussion/disagreements from the County Administration. It will also bring increased efficiency, and therefore cost savings, to the County. The Group recommends that the question of a professional manager/administrator be brought before the full committee whether or not the basic form of government was changed. Interviewees from both sides of the political aisle have advocated that this matter be considered.

Recommendation:

The Group recommends that the issue of the form of government be brought to the full committee for discussion.

Issue 2:

There are 25 separate assessing units county wide. (Collaborative Assessment Report (Gatta, 2009). According to the City-County Task Force Report (Prezioso, 1984) "the property assessment function is now carried out by the cities, towns and villages.... Assessments have long been a source of extreme difficulty, have not been done very professionally and have created extreme inequities among the various property owners". P.96. This was echoed in the County-Town-Village Task Force Report (Prezioso, 1985): "Many of the local assessor's offices in the county are not sufficiently funded, staffed or computerized." Similarly, the recent Collaborative Assessment Study (Gatta, 2009) states that "Inadequate funding causes several systematic problems, one of which is the paucity of electronic data... There is an enormous disparity in both the quality and consistency of the inventory data that is in place in Westchester municipalities."

All reports have refrained from recommending that the County take over the assessment function from the municipalities, despite these systemic problems, although all have specifically cited that as a possible alternative. The City Task Force states that "political pressures make change difficult" (recommendation#14). The Town-Village Task Force points out at page 83, that "The County Charter already contains enabling legislation authorizing a transition to county assessment subject to approval at a referendum prior to becoming effective (Laws of Westchester Chapter 125)."

Alternatives Considered:

- Submit Chapter 125 of the Charter to Referendum without modification;
- Modify Chapter 125 to permit municipalities to "Opt Out";
- County takeover of the assessing function, for County portion of the real estate tax only;
- County to provide assistance to municipalities in the form of mapping and data processing for assessment purposes and to standardize the program for property inventory and the valuation methods used in the 25 separate assessing units.

Discussion:

Assessment is one of the most contentious issues in county and local government. Financially, there seems little question that, overall, taxpayer money can be saved by utilizing the resources of the county to centralize the assessment function. In addition, inequities in local assessment would be eliminated, resulting in a fairness both perceived and actual. Politically, however, this may be a difficult decision, as some municipalities may view this as a usurpation of home rule.

There are alternatives to the "forced" takeover of the assessment function by the County as envisioned by current Chapter 125. For example the Town-Village Task Force Report suggests, at p.53 thereof, that "A county Master Contract for reassessment with local ability to opt in or out seems generally well received." This suggestion is similar to the police arrangements we now see with the County and municipalities, such as with Ossining. It also suggests, in its recommendation #5 at p.55, for assessment "Assistance to towns and villages by the county, including provision of uniform maps and data processing facilities." Again, the County has already taken steps in this direction with the Planning Department and its GIS systems that aid in comprehensive planning.

The Group suggests that the assessment function be transferred to the County, with the municipalities given the opportunity to "opt out." The incentive to become part of the County system would be that all assessment costs would be borne by the County, which would provide the adequate resources and technology that many of the local assessing units are lacking. Also, it would be a cost/beneficial way to fully update and modernize the assessment function in the County. The result would be reduced costs for local municipalities. The centralization and standardization of record keeping should lower overall costs to the county taxpayer and the standardization of assessments should make for a more fair system county wide. An added benefit would be that Tax Certiorari costs should be markedly reduced throughout the County.

Collection of taxes could remain with the municipalities, along with the guarantee of collection, so that the County's bond rating would not be adversely affected. During transition, local assessors could become part of the County centralized assessment system and become county employees.

Recommendation:

The Group recommends that the issue of the County assuming the function of tax assessment be brought to the full committee for discussion.

Issue 3:

The County Clerk, although an elected position, provides mainly ministerial services.

Current County Clerk Tim Idoni addressed the full Commission at its meeting of January 25, 2012. He noted he works under both the State Constitution and the Federal Government for passports and naturalization and under the county charter for electricians and plumbers. Mr. Idoni stated that he is an agent of the state; he operates the land records office under state law, is the clerk of the Supreme Court

and county courts, and is paid by the citizens of the County. He stated he has all 3 levels of government controlling his office.

The Commission asked if the County Clerk is elected by State Law. Mr. Idoni said that it is. He said a prior Charter Revision Commission recommended the county clerk should be an appointed position, but that it is a state decision. Mr. Idoni believed that it should be an appointed position.

In their interviews with the Group, Marty Rogowsky (2/12/2012), Jim Maisano and Tom Abinanti (both 5/15/2012) specifically mentioned the possibility of making the Clerk an appointed position. The issue was further discussed at the Group's meeting of 6/26/2012).

Discussion:

There seems to be little rationale for maintaining the Clerk as an elected position, because of its largely ministerial nature, and support from many officials, including the current officeholder, to make the position appointed.

There was discussion about the method of appointment. There is a question as to whether the appointment should be for a fixed term or at the discretion of the County Executive. The Group believes that the County Clerk should be appointed for a fixed term by the County Executive, with the approval of the Board of Legislators. In addition, professional qualifications should be established for the position.

Recommendation:

The Group recommends that the issue of whether the County Clerk should be an appointed or elected position be brought to the full committee for discussion. The Group further recommends that additional legal research be undertaken to determine the process for effectuating such change.

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Issue 4:

The Charter provides (check Charter provisions) for confirmation by the Board of Legislators of certain officials appointed by the County Executive. The Charter is unclear as to the authority to act by such officials after nomination but before confirmation. There have been circumstances in the past when such officials have not been permitted to act (Marty Rogowsky appearance 2/28/2012). Currently, the County Attorney has determined that such official may act pending confirmation, but such determination is currently the subject of litigation.

Discussion:

It was discussed that the Charter should be amended to make clear that the County Board of Legislators has the responsibility and duty to act on the appointments of all officials made by the County Executive, which are subject to confirmation by the Board of Legislators, within a specified time period. The Group discussed that a proper period might be 60 days, after which, should the legislators not act, the appointment would become effective.

Recommendation:

The Group recommends that the issue of the authority of an appointee to act pending confirmation be brought to the full committee for discussion. The Charter should make clear the appointment and confirmation process as well as the authority to act pending confirmation.

Issue 5:

The County Charter is a living document that should change with changing conditions and reflect current realities. It should not remain stagnant. Prior to the current Charter Revision Commission, there have been two commissions charged with examining and recommending possible changes to the Charter, which was originally promulgated in 1937. The first Commission issued its report in 1959 and the second in 1988.

It should be noted that by the time the Report of this Commission is issued in 2013, 25 years will have elapsed since the previous Report, and it was 29 years before that when the first Commission completed its work, 22 years after enactment of the 1937 Charter.

Former County Executive James D. Hopkins, in his Annual Message of 1957, stated that "We must guard against future entanglement from failure to see ahead." This is no less true today. The Group believes that an independent Charter Review Commission would have the ability to make recommendations to the responsible elected officials that would both help alleviate current "entanglements" and deal with future trends.

Other Counties both within and without New York State provide for periodic review of charter provisions. The Ulster County Charter (2009) provides for revision five years after its enactment and every ten years thereafter by a commission of 11 members. See also Tomkins County §C-31.17.

Suffolk County provides for a periodic review every ten years, with the life of each such new commission lasting two years. The number of members is 15, with five each being chosen by the County Executive and the Presiding Officer of the Legislature and an additional five by both jointly.

Johnson County Kansas, a suburb of Kansas City fairly similar to Westchester, provides in its recent Charter (2000) both (1) that a seven member standing commission be appointed from the 1999 Charter Commission and shall meet at least annually for five years after the effective date of the Charter and (2) that a Charter Commission, composed and appointed as provided by statute, shall be created within thirty 30 days of a date which follows by 10 years the effective date of this Charter, and at least once every 10 years thereafter.

It should also be noted that the City-County Task Force Report (Prezioso, 1984) to the County states as its very first recommendation that the County Charter "Needs to be reviewed and appraised at least every ten years to keep abreast of changing times." When the question arose, most of the Group's interviewees advocated for a periodic review of the Charter.

Discussion:

There was discussion as to whether there should be a "continuing" Charter Review Commission or a "periodic" Charter Review Commission. The appointment of a continuing review commission would alleviate the problem of every new commission becoming freshly acquainted with the charter provisions. On the other hand, a periodic commission would review the Charter with "fresh" eyes.

It is suggested that the Commission not be unwieldy and consist of no more than fifteen members. There are several ways to appoint members. Suffolk County utilizes only the County Executive and the Presiding Officer of the Legislature. Ulster County appoints 11 members and has representation from both the majority and minority parties, as well as the County Executive.

It is also suggested that sufficient staff be provided so that the Commission may operate efficiently.

Recommendation:

The Group recommends that the issue of a "periodic" or "continuing" review of the Charter be brought to the full committee for discussion.

APPENDIX A

Status of Lawsuits filed against the County Administration by certain members of the County Board or the entire County Board since 2010.

Lawsuit Regarding raising the Day Care Parent Share cost to 35% (Judge Neary)

KENNETH W. JENKINS, in his Individual capacity and in his capacity as a Westchester County Resident and Taxpayer, Chairman and Member of the Westchester County Board of Legislators; LYNDON WILLIAMS, in his Individual capacity as in his capacity as Westchester County Resident and Taxpayer, and Westchester Vice-Chairman and Member of the Westchester County Board of Legislators, and PETER HARCKHAM, in his Individual Capacity and in his capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators; and MARY JANE SHIMSKY in her Individual Capacity and in her capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators, v. ROBERT P. ASTORINO, in his Individual capacity and as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, KEVIN McGUIRE, in his Individual capacity and as the Commissioner of the Department of Social Services, and GLADYS CARRION, in her official capacity as Commissioner of the New York State Office of Children and Family Services.

Westchester County, through the Westchester County Department of Social Services (“DSS”) provides a day care subsidy program for low income families. Such program provides financial assistance for day care to eligible low income families to enable a parent or caretaker to work at a job leading to self-sufficiency or to participate in DSS mandated employment related activities while their child is attending a day care facility. In addition to the financial assistance for day care through DSS, each recipient is required to pay a portion of their income or a weekly “family share” toward the cost of day care for their child[ren]. In establishing the family share for Westchester County, the County must select an appropriate percentage from 10% to 35% of a recipient’s income to use in calculating the family share for day care costs.

In December 2011, the Westchester County Board of Legislators (“County Board”) passed and subsequently overrode County Executive Astorino’s veto of the County Board’s addition of \$4.3 million dollars to the family share lines of the 2012 County Budget Act for fiscal year 2012 thereby establishing the County Board’s policy with respect to maintaining the family share for day care for eligible families at 20% of a recipient’s income. The County Board also passed and overrode County Executive Astorino’s subsequent veto of an accompanying Act to the 2012 Budget Act, Act 2011-191, which mandated among other things, that “no changes to policies, programs and services contained in the finally adopted budget shall take place without the prior approval of the County Board of Legislators....” Notwithstanding the foregoing, in

February and March of 2012, the County Executive and DSS Commissioner McGuire announced that budgeted funds would not be adequate to meet projected child day care demand during 2012, and an increase in the family share percentage to 35% would be necessary to continue the child day care subsidy program for the duration of year 2012.

This action, filed in May of 2012, challenges the Administration's attempt to increase the day care parent share cost for eligible low income County residents from 20% to 35% without the approval of the County Board and in violation of the 2012 finally adopted County Budget. Plaintiffs sought and the Court issued a temporary restraining order ("TRO") which prevented the increase in the family share to 35%. The TRO was subsequently lifted when the Court issued a decision granting the Defendants' motion to dismiss the lawsuit. The Defendants argued that the DSS Commissioner had unbridled discretion to raise the family share rate without County Board approval and that the County Board could not set the rate by budget act. Plaintiffs' opposed said motion to dismiss on the basis that the County Board, a necessary party, was not a party to the action and, consequently, the Court lacked jurisdiction to pass on the validity of any part of the 2012 finally adopted County Budget much less the act setting the childcare share rate at 20%. The County Board subsequently filed a non-party motion to vacate the decision. The motion is pending.

Plaintiffs appealed the decision and obtained a TRO from the Second Department when Defendants again attempted to raise the rate effective November 1, 2012. While that TRO was eventually lifted, the appeal is still pending and the childcare rate remained at 20% through the end of 2012 because of Plaintiffs' actions.

Lawsuit Regarding Failure to Accept Applications for Childcare Assistance (Judge Hubert)

In the Matter of KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS v. ROBERT P. ASTORINO, in his individual capacity and in his capacity as Westchester County Executive, KEVIN McGUIRE in his individual capacity and in his capacity as Commissioner of the Westchester County Department of Social Services, and LAWRENCE SOULE, in his individual capacity and in his capacity as Westchester County Budget Director.

In December 2011, the County Board passed and subsequently overrode Respondent CE Astorino's veto of the County Board's addition of \$3.5 million dollars to the "Indirect Social Services" line and \$800, 000 to the "Daycare" line of the County Budget Act for fiscal year 2012 ("2012 Budget Act"). In February and March of 2012, Respondent Astorino and Respondent McGuire announced that the budgeted funds would not be adequate to meet projected child day care demand during 2012. Consequently, the County Board Committee on Community Services met with Respondent McGuire, DSS representatives, and the Respondent Budget Director on several occasions to review concerns on the adequacy of funding of the child day care subsidy program for fiscal year 2012. Committee discussion noted the possibility of additional revenue to alleviate a potential funding shortfall in childcare funding such as:

1. unaccounted revenue from the Child Care Block Grant and 2. any other surplus funds available to DSS from unaccounted revenue in the finally adopted 2012 Budget Act which could be transferred to DSS. Respondent Budget Director had advised the County Board that DSS was forecasting a \$7,519,423 Relief appropriation surplus. Notwithstanding the foregoing, by Public Notice dated September 18, 2012, DSS advised potential applicants for day care subsidies that except for cases in the “guaranteed categories,” no new applications for day care subsidies would be accepted after September 18, 2012, due to lack of funding. As a result of raising the daycare family share percentage, qualified applicants for child care subsidies would very well be unable to obtain affordable day care and, consequently, it would be necessary for such applicants to stop working to care for their children and possibly be required to apply for public assistance.

This action filed in September of 2012, challenges the Administration’s attempt to cut off any new applications for childcare assistance effective November 1, 2012 on the basis that the program was out of money even though the Social Services 2012 Budget contained approximately \$5 million in surplus funds that could be transferred to cover any purported shortfall. Plaintiffs sought and the Court issued a TRO which prevented DSS from refusing to accept day care subsidy applications which remains in place. Defendants moved to dismiss the lawsuit on the basis that the DSS Commissioner has unbridled discretion to use DSS funds as he sees fit. Plaintiffs opposed the motion to dismiss in essence based upon the Laws of Westchester County (“LWC”) and New York State (“NYS”) County Law which provide in part that the County Board has powers with respect to the administration of social services and public assistance and care and that the DSS Commissioner is required to perform duties as directed by the County Board. The motion papers were fully submitted. By Notice of Discontinuance dated January 10, 2013, this matter was discontinued by Plaintiffs. It was discontinued because the issue involved the failure to accept new applications for day care subsidies in 2012, therefore, since the 2012 calendar year has passed, the issue in this matter is now moot.

Lawsuit regarding Capital Projects (Judge Hubert)

KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS, ROBERT P. ASTORINO, in his capacity as Westchester County Executive and LAWRENCE SOULE in his capacity as Budget Director.

On or about November 9, 2010, the County Executive filed his proposed 2011 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations in accordance with LWC Section 167.81. On December 6, 2010, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed County Budget pursuant to LWC section 167.81. Included in the Memorandum of Additions were various new capital projects. On December 10, 2010, the County Board passed the 2011 County Budget authorizing the capital projects added by the Board in accordance with LWC 167.101(1). After presentation of the Budget Acts to the County Executive, on December 14, 2010, the County Executive issued approximately 260 line item vetoes to the County Budget, including vetoes of the capital projects

added by and subsequently authorized by the County Board. On December 23, 2010, the County Board overrode approximately 246 of the County Executive's vetoes including his vetoes of the capital projects added by and subsequently authorized by the County Board by a two-thirds majority, thereby enacting the finally adopted 2011 County Budget Act. In the past, there has been no objection by the County Executive to the County Board adding capital projects to the proposed capital budget and authorizing them in a similar manner. On January 18, 2011, the Westchester County Attorney issued a formal opinion in which he opined that, among other things, because the County Board did not follow the process that County "departments", "institutions", "offices" and "agencies" must follow according to the LWC, to have their capital projects considered by the County Executive for inclusion in his proposed budget and subsequently authorized by the County Board during the County Budget process, the capital projects added by and subsequently authorized by the County Board could not be included in the 2011 Capital Budget Act. In essence, the County Attorney believes that the County Board is required to follow the same process as other departments, agencies and offices in order to add capital projects to the County Executive's proposed Budget, while the County Board believes that as a separate coequal branch of government, they would not be required to follow such process and need only add capital projects into the County Boards' Memorandum of Additions, that if not deleted by the full County Board or vetoed by the County Executive, would be a part of the Capital Budget. The County Executive and Budget Director, relying on the County Attorney's Opinion did not acknowledge, initiate¹ and/or proceed with any of the capital projects added by and subsequently authorized by the County Board in the 2011 County Budget Act. Moreover, the Budget Director did not include any of the capital projects added by and subsequently authorized by the County Board in the 2011 Capital Budget Act to the printed 2011 Capital Budget book.

On or about November 15, 2011, the County Executive filed his proposed 2012 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations. Similarly with regard to the 2012 County Budget, on December 5, 2011, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed 2012 County Budget, which included various new capital projects. On December 8, 2011, the County Board passed the 2012 Westchester County Budget authorizing the capital projects added by the Board, and on December 15, 2011, the County Executive issued approximately 29 line item vetoes to the 2012 County Budget. No capital projects added by the County Board were vetoed. On December 22, 2011, the County Board overrode the County Executive's vetoes by a two-thirds majority, thereby enacting the finally adopted 2012 County Budget Act. The County Executive and Budget Director, relying on the County Attorney's Opinion refused to acknowledge, initiate and/or proceed with any of the capital projects added by and subsequently authorized by the County Board in the 2012 Capital Budget Act. Moreover, the Budget Director did not insert any of the capital projects added by and subsequently authorized by the County Board in the 2012 Capital Budget Act to the printed 2012 Capital Budget.

¹ All capital projects require approvals for planning, financing, etc., by appropriate County Boards, Committees and the County Board in accordance with New York State law and the Laws of Westchester County.

Accordingly, this action filed in July of 2012, challenges the Administration's failure to recognize the capital projects added by the County Board to the 2011 and 2012 finally adopted County Budgets. Defendants moved to dismiss the lawsuit on the basis that the County Board cannot add projects to the capital budget during the budget process, notwithstanding the fact that capital projects have consistently been added to proposed County Budgets in many years past. The County Board opposed the motion to dismiss the lawsuit on the basis that the court lacked jurisdiction to consider the validity of any of the capital projects because no action had been commenced against the County Board challenging their additions of capital projects to proposed budgets as part of their additions to other portions of proposed budgets. The motion papers have been fully submitted and we are awaiting a decision.

Lawsuit regarding the Board of Acquisition and Contract ("Board of A&C") (Judge Warhit)

KENNETH W. JENKINS, in his Individual capacity and in his capacity as a Westchester County Resident and Taxpayer, Chairman and Member of the Westchester County Board of Legislators, and Member of the Westchester County Board of Acquisition & Contract; LYNDON WILLIAMS, in his Individual capacity as in his capacity as Westchester County Resident and Taxpayer, and Westchester Vice-Chairman and Member of the Westchester County Board of Legislators, and PETER HARCKHAM, in his Individual Capacity and in his capacity as a Westchester County Resident and Taxpayer and as Member of the Westchester County Board of Legislators, v. ROBERT P. ASTORINO, in his Individual capacity and as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, JAY T. PISCO, in his Individual capacity and as the purported Commissioner/Acting Commissioner of the Department of Public Works & Transportation and as a purported Member of the Westchester County Board of Acquisition & Contract, and ROBERT F. MEEHAN, in his Individual capacity and as Westchester County Attorney.

According to the LWC, the Board of A&C, consisting of the County Executive, the Commissioner of the Department of Public Works and Transportation ("DPWT") and the Chairman of the Westchester County Board of Legislators ("County Board"), approves all County contracts except for contracts executed by the Bureau of Purchase and Supply and short form contracts under \$20,000 made by heads of Departments. On November 29, 2011, the County Board passed Local Law 4115-2011 (a/k/a "Local Law 6-2012") and presented it to the County Executive pursuant to the LWC. Local Law 6-2012 amended, among other things, the LWC Section 161.01 changing the statutory composition of the Board of A&C by replacing the Commissioner of the Department of Public Works and Transportation ("DPWT") with the County Budget Director and amended other sections of Chapter 161 of the LWC with respect to the operations of the Board of A&C. By correspondence to the County Board dated December 10, 2011, the County Executive vetoed Local Law 415-2011, and on December 22, 2011, the County Board overrode the County Executive's veto. Given that Local Law 415-2011 changed provisions of the LWC relating to "public bidding, purchases or contracts," it was subject to a referendum on petition ("permissive referendum") pursuant to LWC Sections 209.171 and 209.181. No petition "signed and acknowledged by resident qualified electors of the county in

number equal to at least ten per centum of the total number of votes cast for Governor at the last gubernatorial election in the county....” was filed with the Westchester County Board of Elections within 60 days of enactment of such law--- February 22, 2012 --- protesting Local Law 415-2011. Respondent/Defendants believe first that the Local Law is ineffective because the Local Law was subject to a mandatory rather than permissive referendum and further, while the County Board published notice that the Local Law was subject to a permissive referendum, the Board did not follow the requirements of a New York State Law regarding notice and publication for permissive referenda. To date, Respondent(s)/Defendant(s) have refused to implement or comply with Local Law 6-2012 in its entirety and have allowed Respondent/Defendant Pisco, Commissioner of DPWT, to consider and/or vote on more than 50 million dollars of County contracts at A&C meetings held on March 1, 2012, March 8, 2012, March 15, 2012, and March 22, 2012 notwithstanding the written and verbal objections of the Petitioner(s)/Plaintiff(s).

This action filed in April of 2012, challenges the Administration’s failure to enforce Local Law 6-2012 modifying provisions of the LWC concerning the operation of the Board of A&C. Defendants/Respondents moved to dismiss the action claiming the Local Law was not properly enacted and, consequently, they did not have to follow it. The Court denied the motion on the basis that it lacked jurisdiction to consider the Law’s validity because the County Board, a necessary party because it was the body that enacted the law, was not a party to the action and no action had been commenced against such County Board challenging its purported failure to properly enact the Law. Consequently, the Court found that the Defendants did not have any defense to the action and directed them to submit an answer. Defendants submitted an answer and Plaintiffs’ submitted a reply requesting all of the relief sought in their petition including a judgment compelling Defendants to comply with the Law. We are awaiting a decision.

Lawsuit regarding a cancelled Bus Route (Judge Neary)

KENNETH W. JENKINS, Chairman of the Westchester County Board of Legislators on behalf of the WESTCHESTER COUNTY BOARD OF LEGISLATORS, v. ROBERT P. ASTORINO, in his capacity as Westchester County Executive and Member of the Westchester County Board of Acquisition & Contract, JAY T. PISCO, in his individual capacity and as the purported Commissioner/Acting Commissioner of the Department of Public Works & Transportation, JOAN McDONALD, in HER official capacity as the Commissioner of the New York State DEPARTMENT OF TRANSPORTATION, and LIBERTY LINES TRANSIT, INC.

On or about November 15, 2011, the County Executive filed his proposed 2012 County Budget, Appropriations Act and Tax Levy Act with the County Board and County Board Committee on Budget and Appropriations in accordance with the LWC. The proposed 2012 County Budget did not contain funding for the then existing Route 76 Bus Line. On December 5, 2011, the County Board Committee on Budget and Appropriations filed with the County Board a Memorandum of Additions to the proposed County Budget and included an addition restoring funding for the Route 76 Bus. On December 8, 2011, the County Board passed the 2012 County

Budget Act, and following presentation of the 2012 County Budget Act to the County Executive, on December 15, 2011, the County Executive issued approximately 29 line item vetoes to the 2012 County Budget, including a veto of the County Board's addition restoring funding for the Route 76 Bus Line. On December 22, 2011, the County Board overrode the County Executive's vetoes by a two-thirds majority thereby restoring funding for the Route 76 Bus Line and enacting the finally adopted 2012 County Budget Act. The County Board also passed and overrode Astorino's subsequent veto of an accompanying Act to the 2012 Budget Act, Act 2011-191, which mandated, among other things, that "no changes to policies, programs and services contained in the finally adopted budget shall take place without the prior approval of the County Board of Legislators...." Notwithstanding the foregoing, Respondents/Defendants allowed the Route 76 Bus Line to be discontinued or cancelled and thereafter, allowed the Route 13 Bus Line to be amended to cover part of the discontinued or cancelled Route 76 Bus Line. No report was furnished to the County Board by Astorino concerning the renewal, extension or amendment of the Route 76 or 13 Bus Lines, nor was an Act published and passed by the County Board permitting the discontinuance of Route 76 and/or the modification of Route 13 to include portions of the Route 76 line, in accordance with LWC Sections 188.01 or 241.331.

Accordingly, this action was filed in August of 2012, challenging the administration's failure to follow the process set forth in the LWC to modify a County bus route funded by the County Board in the finally adopted 2012 County budget. Only New York State filed any responsive papers moving to dismiss the action against them based on the fact that they are not a necessary party to the action. No decision on this motion has been received. The County Administration's response has not been filed as yet based upon adjournments agreed to by the County Board and the County Administration. The action is pending.

APPENDIX B

MEETING 11/15/11

A meeting of the Focus Group addressing the Executive/Legislative Relationship met on November 15, 2011 at 6:00PM on the 8th Floor of the County Office Building, Herman Geist Library.

Focus Group members in attendance were: Jeff Binder, Vinni Restiano, Gary Zuckerman, and Alfred A. Gatta. Richard Wishnie, Chair CRC, attended along with two County staff: Melanie Montalto and Stacey Dolgin-Kmetz.

Discussion ensued as to how the Group should approach the task and what areas of the Executive/Legislative Relationship should be reviewed. Two focus areas were discussed:

1. The Group would identify and describe four or five issues where the relationship is not working well. The circumstances would be defined and dissected; structural improvements would be recommended to create a context that fosters and encourages working together hopefully leading to a better relationship. Some of the improvements or changes may require amendments to the County Charter. An example of potential issues that impact the relationship would be (i) the Board of Acquisition and Contracts procedure; (ii) the Corporation Counsel and the Budget Director's reporting path and relationship to the Executive and the Legislative branches and (iii) the communication process between the branches of the government including the sharing of information;
2. Secondly, the Group would take a broader look at the relationship by reviewing the structure of the County government to see if a change in the "form" could improve the overall interaction and cooperation among the Executive, Legislature and the County Administration. This amended "form" would seek to be very self evident, clarifying and didactic.

No decision was made on these areas of concern, but it laid out two next steps for the Focus Group:

1. A meeting was scheduled for December 15, 2011 with someone from the New York State Association of Counties (or someone of equal experience and knowledge that could explain options for forms of government). This individual will be asked to compare and contrast the current form of government in the County, which has an elected County Executive with both executive and administrative powers and a Legislative body with full legislative authority with a form of government that contains a Legislative body with full legislative authority with an elected Executive elected county-wide and serve as a member of the legislative body and hold certain executive powers, e.g. Chair of the body with no vote, but possibly a veto (many more examples can be provided) and a professional independent manager or administrator with certain administrative powers to hire and fire and prepare budgets. The entire legislative body of which

the Executive would be a member would appoint this professional.

2. The second step decided was that at the next full CRC meeting which is scheduled for January 25, 2012, a former County Executive be invited to talk about their experience with the Westchester County government structure and whether any structural changes could be made that would improve the overall framework of governance and the service system delivery. This improved framework for governance (form of government) would have to possess the proven elements for success that exist in other forms throughout the State and Country. The form by its very design would be a model where differences can be expressed, politics debated and where various views can flourish. But the end product cannot result in a less effective overall legislative, administrative and service delivery system and governmental performance for Westchester County.

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
FOCUS GROUP: EXECUTIVE/LEGISLATIVE RELATIONSHIP
MINUTES**

January 20, 2012

Members in Attendance: Alfred Gatta, Herman Geist, Lester Steinman, Matt Thomas, Richard Wishnie, Gary Zuckerman

Absent Members: Jeffery Binder, Vincenza Restiano

County Staff in Attendance: Stacey Dolgin-Kmetz, Melanie Montalto

Guests: Dr. Gerald Benjamin

MINUTES

Mr. Gatta called the meeting to order at 12:30PM on the 8th Floor of the County Office Building, McPoland Conference Room.

Mr. Gatta stated the group had a two-part agenda for the meeting, beginning with Mr. Zuckerman's report regarding discussions he had with legislators from Johnson County, Kansas on the relationship between the legislative and executive branches.

Mr. Zuckerman remarked as a result of the Westchester County Charter, our government resembles the New York State Government, with both an executive branch and a legislative branch. He discussed changing the way we look at government and wondered whether changing the current form could alleviate some of the conflicts between the administration and legislature, if the underlying problems are structural or operational.

Mr. Zuckerman discussed the Johnson County Government, of Kansas and noted relatively similar demographics to Westchester County. He explained that a new charter, passed in 2007, provided for seven county commissioners, six of which are elected in districts, with the seventh serving as the Chairman of the County Board of Commissioners being elected at large. Mr. Zuckerman reiterated his desire to simplify the charter, noting that their charter had seven articles. He further discussed charter provisions that folded some of their elected offices together and changed elective positions into appointed ones. He pointed out that their Charter Revision Commission also meets every ten years, but also annually they have seven members of the existing commission meet to review the provisions of the charter and make recommendations.

Mr. Zuckerman discussed the powers and duties of the Board. He noted the powers vested in the Board of County Commissioners were legislative, fiscal management, land use & zoning, administrative oversight, representation of each ones' districts. The Group

asked if the seventh at large Commissioner has any special powers, to which Mr. Zuckerman replied that he served as Chairman and although not in the charter he only voted to break a tie, but didn't have a veto power.

Mr. Zuckerman noted that their Charter Revision Commission met in 2011, two of the recommendations for change included increasing the number of commissioners from seven to nine, and to give the Chairman Veto power. There was a fringe that tried to put into the Charter any increases in taxes would have to be put to a referendum, which resulted in the Commission not making any changes.

The Group asked how long has this form of government been in place, to which Mr. Zuckerman replied it was in place since 2000. Prior to 2000 they operated under the state having three, then five commissioners along with other elected officials, but no executive officer. There was a seat change in which, the County Manager was appointed. Mr. Zuckerman went on to list the powers and duties of the County Board of Commissioners. He noted that like Scarsdale, it is a non-partisan form of government. He stated that the County Manager had the power as chief administrator and appointed the various heads of the departments, along with other duties. Additionally the County Manager appointed the treasurer, although an independent auditor was hired.

The Group asks how the County Manager was appointed to which, Mr. Zuckerman responded that the County Board of Commissioners elected him and in all likelihood had a contract with the County. Mr. Zuckerman presented this report to show that there are other Counties that are similar to Westchester that utilizes forms of government that the Commission is familiar with. He reiterated that this form of government could be used to increase efficiency between our legislative branch and executive branch but noted that the downside was less checks and balances, being a co-equal form of government. He remarked that the County Executive probably has taken on more executive powers than the Charter originally envisioned.

The Group thanked Mr. Zuckerman for his report and moved on to the second item of their agenda. The Commission introduced Dr. Gerald Benjamin, the Associated Vice President for Regional Engagement and Director for the Center for Research, Regional Education, & Outreach at SUNY New Paltz, along with other various titles and honors. Dr. Benjamin served as Chairman of the Ulster County Charter Revision Commission. He had helped to establish a more representative form of government in Newburgh and helped the County avoid lawsuits pertaining to voting rights.

He noted that in New York, there are a range of different governing styles that make it easy to see the pros and cons of each and how they operate. With regards to the separation of powers systems he discussed two forms, one being the elected executive form and the other being an appointed executive form, although there are very few charter counties in New York that operate using County Managers, and discussed the conditions under they are appointed. He went on to discuss the conditions that govern an elected executive, being bound by the charter. An elected executive brings legitimacy to the executive position, especially when dealing with the state government.

Dr. Benjamin discussed why a legislature will often complain it's been weakened if it is a part of a separation of powers system, and whether that was the legislature's fault or the system's fault. He stated that in Ulster County they made a strong legislature and listed its powers. He stated they empowered people who were used to operating by committee in direct relationship with departments in legislative roles. The three problems preventing a legislature from asserting its power are partisan conflicts, personal conflicts, and institutional overlap of powers. A unified legislature can overcome an executive; however the partisan and personal conflicts can prevent a legislature from doing so, but he stated these are operational, not institutional issues. He stated that the size of a legislature influences its actions, such as when using the override power.

The group asks about the override process, and its maneuverability within the system. The question was how they could structure a government that allows it to operate under the worst of operational issues e.g. between the legislature and executive. Dr. Benjamin stated that there is no perfect structure, but there is a good one for the situation, but amendment and charter provision revisions. He mentioned in recent revision in Ulster an executive and legislative provision that would allow the commission after study to go directly to a referendum in order to bypass the governing body, modeled on the Illinois State Legislature. Chairman Wishnie notes that Westchester Charter Revision Commission doesn't have that power and can only make recommendations to the legislature who would vote for or against them.

The group asks hypothetically if the County wanted to hire the best professional for a position, what would bring them here since a brand new government could be in place in two years time. Dr. Benjamin replied that the presumption is there is greater stability in appointed positions comparative to elected positions and those more qualified appointees might have their careers in one place. A member of the group states that two years of conflict between the executive and legislative branches doesn't justify throwing out a system of government that has been in place for thirty to forty years. It is noted that homogenous places are better served with an appointed executives whereas elected executives serve better in heterogeneous places. The Commission noted that generally larger counties have elected executives, but Dr. Benjamin stated that wasn't always the case.

The Group remarked that the conflict between the two branches over the past two years have been mainly due to personal strains. Dr. Benjamin noted that in situations with fewer resources, the government has to be redistributive, thus there are greater tensions, but mandate relief from the state would help. He made the point that if a legislature let partisanship prevent them from acting, they couldn't complain about the executive overreaching. A group member noted that in a non-separation of powers system people are forced to work together in a legislature, which again raised the issue of the size of the Board. It depended on the dynamics of the situation and the community.

Dr. Benjamin noted that when there was a charter revision decision it is because there was no policy direction or wanted to change something about the relationship between the legislative branch and executive branch. He discussed the internal audit function and suggested the commission look at this.

The Group asked if the County had an elected comptroller, would it be possible to change the position of County Clerk. Dr. Benjamin remarked he would have to look at the law, and agreed that the position of Inspector General was similar in nature. The Legislature, he noted, also has an oversight responsibility that the executive doesn't like, but it is essential to have that type of accountability.

Dr. Benjamin reported being in favor of districting commissions to design legislative districts, and suggested taking a look at the process of how our government handles this. Additionally, he suggested that elected officials adjust compensation frequently, as the public is sensitive to self-serving decision making, with a structure in place that require review on a periodic basis. The Group noted Westchester County has a measure like this in place.

Dr. Benjamin discusses the relationship between local governments where issues could be raised, such as the issue of their share of the tax. The drive for collaboration isn't as successful as it could be is because the County is in charge of this. He noted that agendas not limited to County issues would raise interesting conversation on how people could work together.

Dr. Benjamin noted that the provision on assessing was in the charter but that it needed to be implemented with a referendum. New York is the 48th worst assessed state, and all the County has to do is pull the trigger. The Group noted that this process would take at earliest six to eight years and that the longest established people have been advantaged by inequity and is against it. Dr. Benjamin closed on the point that increased collaboration by local government without County administration would be less threatening and improve the County Government itself.

The Group noted that the Charter Revision Commission has had hundreds of recommendations to work from, but felt that some of the other focus groups were addressing minor issues. They came to the consensus that they need to decide whether to address multiple issues or try and limit their recommendations to something smaller in order to deliver a more effective message. They agreed that the County Government has been in place for a long time and believed that the current conflict between the administration and legislature is more related to personal strains rather than an institutional failure. They agreed that the executive had a lot of power as to the budget process that could potentially circumvent the balance of power. They agreed that thinking outside of the box and bringing in former officials could expand their understanding of the issues, and that realistically they could only bring in people who knew the County's situation firsthand. The commission believed operational, not institutional problems are responsible for the problems the legislature faces.

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
FOCUS GROUP: EXECUTIVE/LEGISLATIVE RELATIONSHIP
MINUTES**

February 28, 2012

Members in Attendance: Jeffrey Binder, Alfred Gatta, Florence McCue, Matt Thomas, Vincenza Restiano, Bertrand Sellier, Richard Wishnie, Gary Zuckerman

County Staff in Attendance: Stacey Dolgin-Kmetz, Melanie Montalto

Guests: Marty Rogowski, George Latimer

MINUTES

The meeting of the Executive/Legislative Relationship Group of the Westchester County Charter Revision Commission was called to order at 11:00 A.M. Former Board of Legislators Chairman George Latimer addressed the group. He discussed several problems with the group relating to the relationship between the current executive and legislative branches of the County Government.

The Group asked Mr. Latimer to comment on the present relationship and what it was like when he was in office. He discussed the two branches and how the party affiliation played a role in determining the relationship between them, discussing both same-party & opposing-party executive and legislative branches and the effect on the County Government. He discussed how he handled the aforementioned problem and reiterated the need for the two branches to improve and maintain a better relationship, in order to do what was best for the County as a whole.

He discussed how party and personal interests could create problems and stated the need for them to find common ground on the issues, in order to do what was best for the County. He went on to discuss each branch's desire for power in the County Government, but noted that every government needed a strong executive branch. Additionally, the idea behind having a strong legislative branch is to remove some of the pressure from the executive branch and in so doing spread the power in County Government.

Another problem discussed was the overlap of different departments such as budget department and the finance department, especially during the budget process. He noted that although the County Attorney and Budget Department are supposed to remain indifferent in theory, they primarily report to the County Executive.

He further noted the power that the press had, and that it tended to focus on the executive branch, more so than the legislative branch. He noted that the person with the most political power inherently had the greatest financial capability to put forth their agenda. The County Executive was elected by the entire County whereas each legislator was only elected by their respective district. The power to slow down legislation and the veto override are really the only leverage a legislature has to check the power of the executive branch and therefore negotiate a compromise.

Mr. Latimer recommended that the County change their fiscal year to the same as New York State's fiscal year, July 1 – June 30, with an adoption date of June 15 in order for the County to construct a more accurate budget, provide greater transparency, and increased input from the public. The budget should be locked in by July in order to limit its influence on campaigns.

A big issue was that most people don't know or care about the structure or issues in government unless it directly affects them, i.e. the candidate who will do the most for that person with the shortest, most direct explanation to an issue. Mr. Latimer addressed the Groups questions about the need of each branch to recognize the other branch's prerogative power and work together, regardless of operational differences. Mr. Latimer discussed with the group the Board of Acquisitions & Contracts and each member's role. He suggested that the Commission strongly look at the appointments process and clarify each branches' functions and duties.

The Group asked how they could implement significant change and Mr. Latimer stated that popular support from the public was vital and that the Commission needed to understand its market. Additionally, he suggested in simplifying the County Charter so it would be clearer and easier for the public to utilize. He also suggested reducing the number of legislators in order to increase efficiency to a more appropriate number of around 11. He also suggested a fixed term for the County Attorney and Budget Director.

Former Legislator Marty Rogowski addressed the group and his experience dealing with prior Charter Revision Commissions. He discussed with the Group how to turn the Commission's recommendations into actual results and noted that it could take several years. He noted that despite public opinion our County Legislature was relatively efficient. He gave the Group several recommendations, the first addressing the tradeoffs between public hearings and efficiency.

He went on to discuss one success of the Board of Acquisitions & Contracts in providing greater transparency and public input. He noted that in his opinion the Board of Acquisitions & Contracts was more of an administrative function to expedite the process and, once something reached the board, policy and politics were done, and it should be passed. He cited the recent budgetary conflict about Title XX childcare. It was an issue of the power of authorization versus the power of allocation.

He addressed the larger conflict between the two branches, comparing the County Government to a corporation and discussed the respective roles the executive and legislative branches should have according to the charter. He reiterated that the underlying issue was a fight over the balance of powers and went into depth over the current problem over appointments process. Overall he suggested the Commission clarify the powers for each branch in the County Charter. He also discussed the positions of the County Attorney and Budget Director, and mentioned the need for the County to have a single voice when dealing with higher levels of government, with reference to the recent affordable housing lawsuit.

Mr. Rogowski believed that the dysfunction was more rooted because of a structural issue instead of an operational issue, as the Board of Legislators did in fact come into conflict with the Spano administration at times. He gave several examples of counties where the Chairman of the Board of Legislators ran county-wide, which would eliminate the need for a separate executive branch. He claimed it would create a more homogenous government, with fewer legislators (down from 17 legislators to 11-13) which would equate to greater efficiency. He noted at the most recent meeting of the Board of Legislators, the Board's actions of turning down all of the County Executive's appointments could be construed as playing politics to the public.

The Group asked if there was enough communication between the local municipalities and the County Government. Mr. Rogowski discussed the unofficial candidacy of the Chairman of the Board of Legislators for the upcoming race for County Executive, and noted that these two people essentially run the County Government and this was a real problem. They discussed the evolution of the County Government and its beginnings as a Board of Town Supervisors. His point was that the County does more for the municipalities than they do in return for the County. He further stated that people had to buy into the idea of County Government improving the quality of life, but at the same time they had to pay for that improved quality.

Mr. Rogowski's final recommendations reiterated the Group's earlier comments about the need to look at the appointments process, specifically mentioning the County Clerk. He also encouraged the group to look at the findings of the 1986 Charter Revision Commission as some of those recommendations could still be valid today. He suggested a possible revision of the relationship between the County Planning Board and the local municipalities, along with a possible increase in the County's sales tax. He ended on a brief discussion about the relationship between the executive and legislative branch, and suggested possible reasoning for each one's policy making and how that factored into their relationship.

The Group praised and thanked the speakers for their time. They gave closing remarks noting that the speakers both focused on four or five similar topics. It was noted that the next meeting for the Executive/Legislative Relationship Focus Group would be March 27 at 12:30 P.M. Mr. Zuckerman made a motion to adjourn, which was seconded by Mr. Thomas and the meeting was adjourned at 12:55 P.M.

Westchester County Charter Commission

Executive/Legislative Focus Group

Minutes

The Executive/Legislative Focus Group met on Tuesday, March 27, 2012, at the Scarsdale Village Hall. Focus Group members in attendance were Gary Zuckerman, Vinnie Restiano, Jeff Binder and Alfred Gatta. Richard Wishnie the Commission Chair was also in attendance.

The objectives of the Executive/Legislative Focus Group are: (i) look at the full range of the relationships between the Executive and Legislative branches of the County Government which involves the structure of the organization and determine whether a "change in the form" could improve the overall interaction and relationship between the current two branches. ~~For example, whether the County Executive's position could be elected at large and have a seat on the Board of Legislators and serve as the "Board Chair." This would require the establishment of the position of "Professional Administrator" to manage the daily operations of the government.~~ There are many different permutations and models relative to the ~~for this kind of~~ organizational structure of the County; (ii) the second objective is to identify several issues where changes in the current procedure, or in the charter if necessary, to necessitate a better working relationship between the Executive and Legislative branches. Examples would be changes to the Board of Acquisitions and Contract procedure; a better defined reporting relationships involving the Budget Director and Corporation Counsel (County Attorney) with the Executive and Legislative branches.

At the meeting John Nonna and Bill Ryan shared the experiences and beliefs in the context of the objectives established by the Focus Group. Without attributing any specific views the following insights and comments were shared:

4/12/2012

- It may be appropriate to examine the County Charter relative to the County Executive's position where the position would still be elected "at large", but would also have a seat on the Board of Legislators and serve as the "Board Chair";
- The current county structure of two branches of government can be effective and one of the important aspects of it is the checks and balances and natural tension that exists which serves to keep both branches on its toes. There is, unfortunately, a needed bureaucracy to make it work;
- The current budget process is used to make policy changes and there is too short a time for either branch to react to these items which can be significant;
- The capital budget and planning process needs to be clarified to specify the roles and inputs from the Executive and Legislative branches and the role of County Planning Commission in the process must be better defined;
- The Executive's veto over a budget item and the Legislature's override of a veto needs to be more specifically ~~prescribed~~ set forth in the charter to have no doubt as to what action represents the final authority on any budget matter;
- In regard to budget the Charter must clearly prescribe the final authority relative to the final adoption and establishment of the tax rate;
- In regard to budget the Executive veto authority needs to be explored as to whether a veto should only apply relative to increases in expenditures made by the Legislature and whether the veto authority should also apply to decreases made by the Legislature. Currently the Executive can only veto increases made by the Legislature, not decreases;
- The purpose and authority of the Board of Acquisition and Contracts needs to be reviewed and evaluated addressing its overall role, membership and whether it serves strictly as a "ministerial function" to carry out decisions that have been properly made by the government body;

- There needs to be education and/or clarification on what constitutes a policy of the "County Government:" A statement from the County Executive, or a majority vote of the County Board;
- The Charter needs to have concise language on the mechanism for amending the document. Currently, there is conflicting language as to whether certain changes are required to have a "permissive" vs. "mandatory" referendum;
- The code of ethics should be reviewed for changes with specific attention given to reducing the complexity of the financial disclosure form;
- A distinction is needed between a "Resolution" of the Board of Legislators and a "Law" adopted by the Board of Legislators. In essence a resolution should be seen as only an expression of intent and the subject of the resolution is not required to be fulfilled. A law on the other hand is a statutory provision embodied in a "Code of the Law" and the subject of the law is required to be carried out by all parties.

Executive/Legislative Relationship Focus Group

Minutes

May 15, 2012

The Executive/Legislative Focus Group met on May 15, 2012 at the Scarsdale Village Hall. The members of the Focus Group are Alfred A. Gatta, Chair, Gary Zuckerman, Vice Chair, and members Matthew Thomas, Vinni Restiano and Jeff Binder. Present at the May 15th meeting were Gatta, Zuckerman and Thomas.

Guests at the meeting were former County Legislator and present State Assemblyman Thomas Abinanti and Present County Legislator James Maisano.

Chair Gatta set the framework for the presentation from Mr. Abinanti and Maisano. Mr. Gatta indicated that the Executive/Legislative Focus Group was looking at two courses (approaches for possible changes) that would improve the relationship, interaction and the efficiency of governing by the Executive and Legislative branches of the County government. The two approaches are (1) identification of key issues based on the research and the in depth interviews that have been conducted with various government experts, past and current County officials and changes that could create a better environment between the Executive and Legislature. The changes could be either procedural, or require charter amendments; (2) the second approach would be to seek the full range of changes to the structure of the County government, or a change in the form of government.

Presenters that have shared experience and insights with the focus group at various meetings included Dr. Gerald Benjamin, former Director of the Center for the New York State and Local Government Studies at the Rockefeller Institute of Government and currently the Associate Vice President for Regional Engagement and Director of the Center for Research at SUNY New Paltz. Also George Latimer, Marty Rogowsky, John Nonna, Tom Abinanti and James Maisano. In addition Al DelBello, Andy Spano and Tim Idoni appeared before the Full Commission.

In regard to the first approach, recurring key issues and subjects were almost unanimously raised and discussed. The issues were identified independently by the presenters that had no previous interaction with each other. The key issues were: (a) appointment authority and reporting relationship for the County Attorney and the County Budget Director; (b) the capital budget and planning process; (c) the general budget process, calendar and fiscal year; (d) the need to clarify the executive veto involving items that are mandated by charter, e.g. execution of the adopted budget and specific line items; (e) BOL's (Board of Legislators) ability to increase/decrease the Executive's recommended budget in the context of an executive veto and BOL override; (f) role, purpose and authority of the Board of Acquisition and Contracts; (g) clarification on how to change the charter, currently there is confusion on whether some changes need a "mandatory" or "permissive" referendum; (h) need to update and simplify the Code of Ethics as it is currently too lengthy and sections are not relevant; (i) the need for a clear distinction between a resolution of the Board and an adopted County Law in regard to what constitutes a "policy position" of the "County" and what is the "Law of the Land," until overturned by a Court of Law.

The second approach would deal with the full range of the County Charter and would require a change in the organizational structure, or “change in the form” of government. The change in the form of government may in itself foster a better relationship between the Executive and Legislative branches and improve the interaction and overall performance of the government. There are various models for the organizational structure of a government. The form of government that currently exists can be simply described as a Legislative/Executive form, where there is separation of an Elected Executive from an Elected Board of Legislators, but no separation between an Elected Executive and the professional administration. Alternative models and permutations are bountiful and many are generally structured with an elected Board of Legislators together with an Executive or Board Chair that may or may not be a voting member. In such an arrangement the day to day administration of the county is performed with a paid Administrator or Manager. Again there are various permutations dealing with the election process, voting, appointments, etc. all of which can be tailored to the local needs.

At the Focus Group meeting on May 15th Thomas Abinanti and James Maisano presented issues that were remarkably the same as those that were previously presented. Mr. Abinanti presented a detailed outline and, although Mr. Maisano had different thrusts and emphases, he identified many of the same issues.

The issues raised by Abinanti and Maisano which were, again, similar to those presented by others were: (1) the indemnification of the BOL needs to be

clarified, or defined as part of the overall indemnification provided for in the charter for the “County Government;” (2) clarification of the subpoena powers of the BOL; (3) the position of County Executive should be evaluated in the context of other models for a County government structure; (4) the role of County Attorney should be clarified in regard to whom it serves, i.e. “County Executive”, “Board of Legislators” and/or the “County of Westchester;” (5) the Acquisitions and Contract process needs to be restructured by placing the Budget Director on it and removing the Commissioner of Public Works. Also it must be clarified as to whether it serves a “ministerial” function, or whether it can “amend” or “veto” an action taken by the BOL. Further, its role in real estate interests needs to be clarified, e.g. sale of property, approval of License Agreements; (6) relative to the budget process, the “Executive veto” and the “BOL override,” and which prevails in the end needs to be clarified. Finally, consider changing the County Fiscal Year because as it is reported there is not enough time for budget deliberations; (7) explore the appointment of the District Attorney and County Clerk rather than electing those positions at-large; (8) clarify the preparation and finalization of the BOL agenda, i.e. deadlines, adding items after the “published” agenda; clarify how items get referred to committee. Currently the leadership determines referrals and the full body does not vote on them; (9) consider creating an in-house audit team; (10) define precisely in the charter the meaning and the weight given to a charter requirement, code provision, local law, an act and a resolution.

Executive/Legislative Group
Minutes
June 26, 2012

The Executive/Legislative Focus Group met on June 26, 2012 at the Scarsdale Village Hall. The members of the Focus Group are Alfred A. Gatta, Chair; Gary Zuckerman, Co-Chair; Vinni Restiano; Matthew Thomas and Jeff Binder. Present at the June 26, 2012 meeting were Gatta, Zuckerman and Binder. Lester Steinman, Counsel to the Commission also attended.

A detailed agenda was discussed which contained issues involving the operation and organization of the County government as related to the structural relationship between the County Executive position and the County Legislature. The issues identified were recurring items that had been raised at past focus group meetings by presenters that spoke about issues that are essential for a productive interaction between the position of County Executive and the County Legislature as a body.

The issues that were agreed to be part of the Focus Group's final written report were identified while a number of others were eliminated, or left for the Budget and Finance Focus Group to consider.

Items that will be written up for the full commission to consider are:

- A clarification of the use of the executive veto by specifying when and under what circumstances it can be exercised. In addition there must be clear language in the charter relative to adoption of laws, executive veto and the Board of Legislature's veto override of such laws. This process must be particularly clear in the enactment of laws involved with the adoption of the County Budget;
- The Charter must contain consistent and specific language in regard to actions that require a "mandatory" or a "permissive" referendum;
- The indemnification language in the charter must be more specific in the protection provided to "individual elected officials" and whether the current language indemnifying the "County Government" as the corporate entity is all encompassing;
- The responsibility and broad duties of the County Attorney must be specified in regard to the primary interest served by the office in opinions and legal representation, i.e. County Government as a corporate entity, the Board of Legislators (BOL) or the County Executive;
- A requirement for a periodic review of the County Charter with an organizational structure for the review entity and intervals specified.
- The elected position of County Clerk should be changed to an appointed position by the County Executive with confirmation by the BOL;

- Consideration must be given for changing the structure of the County government from the existing two branches of Legislative and Executive, where the Executive and the Administration are one and the same, to a structure that has a County Administrator or Manager and where the County Executive may be a member of the Board of Legislators and serving as the chair.

The following issues were left to the Budget and Finance Focus Group to consider:

- Change in the fiscal year;
- Clarification of the budget adoption process and in particular the adding and decreasing of various line items by the BOL; the executive veto and the BOL override of vetoes and programs contained in the budget;
- The Capital Planning and Budget Process must be clarified particularly as it pertains to addition and elimination of projects;
- Roll, purpose, need and authority of the Board of Acquisition and Contracts needs to be clearly outlined;

The following items were eliminated from inclusion in the Executive/Legislative Focus Group final report:

- The appointment authority and reporting relationship for the County Attorney and County Budget Director;
- Clarification of the subpoena powers of the BOL;
- Finalization of agendas for BOL meetings;
- Greater specificity in the Charter in the definition of charter requirement, code provision, local law, local act and a resolution.

The Executive/Legislative Focus Group decided that before a final written recommendation on the issues set forth above, that another discussion with the current President of the NYS Association of Counties and a County Manager and/or County Executive from a New York County is scheduled. Further those members of the full commission are invited to attend the Focus Group meeting when the discussion occurs. A meeting has been confirmed for September 27, 2012 at 6:00 P.M. which is prior to the full commission meeting.

Alfred Gatta

From: Alfred Gatta
Sent: Thursday, September 27, 2012 3:29 PM
To: 'Gary J. Zuckerman'
Subject: Draft Agenda for Tonight
Attachments: Exec Leg Focus Group 092712.doc

Gary,

Since our agenda for this evening's Executive/Legislative Focus Group Meeting has evaporated and we are going to look at the final issues to be recommended to the full Charter Commission, I thought I would prepare the attached as a guide. Please make any changes/additions, etc.

AAG

As a result of the June 26, 2012 Executive Legislative Focus Group Meeting, the issues discussed over the past months were narrowed to the following:

- ✧ 1. Appointing Authority and Reporting Relationship for County Attorney and Budget Director;
- 2. Revision of Indemnification language clarifying whether indemnification runs to the "County Government" and does it include individual elected officials;
- 3. Change the elected position of County Clerk to an appointed position;
- 4. Clarification of the use of the "Executive Veto", e.g. items "mandated" by charter and the use of the veto during budget adoption (Lester was to look at this);
- 5. Clarification of charter language in relation to situations that require a "mandatory" referendum and those that require a "permissive" referendum (Lester was to look at this);
- 6. A process established for the periodic review of charter with structure and time interval to be determined;
- 7. Consideration should be given to changing the structure of the County Government and a study group of experts should be established to make recommendations. The current structure of the two branches, Legislative and Executive, where the Executive and Administration are one and the same should be reviewed in conjunction with various other models. For example, a single Legislature where the Executive is elected at large and serves as the chair of the Legislature with an appointed County Administrator. Specific details of various models and recommendations involving appointment authority; the Executive's authority; authority of the Legislature; budget process and related matters should be identified and presented by the study group to the County Executive and Legislature for consideration.

APPENDIX C

From: Steinman, Lester [lsteinman@wkgj.com]
Sent: Wednesday, October 03, 2013 2:43 PM
To: 'agatta@scarsdale.com'
Cc: Richard Wishnie'; Zuckerman, Gary; Thomas, Matthew; Restiano, Vincenza; Binder, Jeffrey; Dolgin-Kmetz, Stacey; Crane, Christopher
Subject: Westchester Charter Revision Commission - Executive/Legislative Focus Group Issues

Al,

One of the issues you requested that I address is the obligation of the County Executive to enforce local legislation. Section 110.11(6) of the County Charter provides that it shall be the duty of the County Executive:

"To see that the laws of the state, pertaining to the affairs and government of the county, the acts and resolutions of the County Board and duly enacted local laws are executed and enforced within the county;"

In Council of the City of New York v. Bloomberg, 6 N.Y.3d 380 (2006), the New York Court of Appeals acknowledged that:

"The Mayor does indeed have a duty to implement *valid* legislation passed by the City Council, whether over his veto or not, but he also has a duty to comply with valid state and federal legislation.... Where a local law seems to the Mayor to conflict with a state or federal one, the Mayor's obligation is to obey the latter..."

The Court also reaffirmed its prior decisions holding that "an officer against whom a proceeding for a writ of mandamus is brought (to compel enforcement of legislation) may defend (a refusal to enforce that legislation) on the ground that the legislation he or she has been asked to enforce is invalid."

In Bloomberg, the Mayor declined to enforce the City's equal benefits law, enacted by the City Council over the Mayor's veto, on the grounds that it conflicted with and/or was preempted by the State's competitive bidding laws and the federal ERISA statute and curtailed his powers as Mayor without a referendum in violation of the Municipal Home Rule Law and the City Charter. It should be noted that the Mayor instituted litigation against the City Council to declare the equal benefits law invalid prior to its effective date.

Another issue that you asked me to address is whether the Charter requires clarification regarding actions that are subject to mandatory and permissive referenda. Sections 209.161 and 209.171 of the Charter separately define actions subject to either a mandatory or permissive referendum. In most, but not all, respects, the actions listed in those sections correspond to actions subject to a mandatory or permissive referendum pursuant to Sections 23 and 24 of the State's Municipal Home Rule Law. Where the State and Charter provisions correspond, a considerable body of case law exists regarding their interpretation and application.

A third issue that you asked me to examine involves the defense and indemnification provisions of the Charter and whether it covers individual elected officials. Section 297.31 of the Charter provides for the defense and indemnification of County employees. The term "employee" is defined as "any person holding a position by election, appointment or employment in the service of the county, whether or not compensated ..." (emphasis added").

Please let me know whether you have any questions regarding this research.

Regards

Les

Lester D. Steinman
Wormser, Kiely, Galef & Jacobs LLP

APPENDIX D

Chapter 125. DEPARTMENT OF ASSESSMENT

Sec. 125.01. Vote on creation of Department of Assessment.

Sec. 125.11. Department established. [§ 38 of the Laws of 1937, Ch. 617; amended by the Laws of 1940, Ch. 559]

Sec. 125.21. Powers and duties of the department.

Sec. 125.31. Assessment in separate tax districts to be shown.

Sec. 125.41. Completion of assessment roll.

Sec. 125.51. Duration of assessment roll.

Sec. 125.61. Special franchise assessment.

Sec. 125.71. Office of local assessors abolished.

Sec. 125.81. Tax rolls of local units.

Sec. 125.91. Review of assessments.

[This chapter is inoperative unless and until the proposition provided for in § 125.01 is adopted.]

Sec. 125.01. Vote on creation of Department of Assessment.

[§ 37 of the Laws of 1937, Ch. 617; amended by the Laws of 1942, Ch. 624]

At any general election following the adoption of this act there may be submitted to the electors of the county by act of the County Board in the manner hereinafter provided the question, "Shall there be a County Department of Assessment?" If the vote thereon, in accordance with the provisions of Article 9 of the Constitution, shall be in the affirmative, the subsequent provisions of this article shall become effective in the county. If a majority of the votes cast thereon as above provided, be in the negative, the same proposition may be submitted at any subsequent general election, but not more frequently than once in two years. Such question shall be so submitted if a petition praying its submission and signed by resident electors of the county qualified to vote at the last preceding general election equal in number to five percent of the total vote cast in such county for the office of governor at the last general election at which a governor was elected is filed with the officer or board having jurisdiction of elections in such county not less than 60 days prior to the general election at which it is to be submitted.

Sec. 125.11. Department established. [§ 38 of the Laws of 1937, Ch. 617; amended by the Laws of 1940, Ch. 559]

There shall be a Department of Assessment, the head of which shall be the Commissioner of Assessment, who shall also be the County Assessor. He shall be appointed on the basis of his knowledge of the principles and methods relating to the valuation and assessment of property for the purpose of taxation and of his executive and administrative experience, pertaining to the duties of the office. His term of office shall be for six years, to expire at the end of the calendar year.

Cross references—County Tax Commission, Ch. [122](#); Westchester County

Tax Law, Ch. [283](#).

Statutory references—Real property tax, Real Property Tax Law; State Commissioner of Taxation and Finance, Tax Law, § 170 et seq.

Sec. 125.21. Powers and duties of the department.

[§ 39 of the Laws of 1937, Ch. 617]

It shall be the duty of the County Assessor to assess all property other than special franchises, situated in the county and liable to taxation for state, county, city, town, village, school district and special district purposes in accordance with the following provisions:

- [1.](#) The County Assessor shall formulate and adopt such rules and regulations for the guidance of his deputy assessors as will establish a uniform and equitable system for assessing all classes and kinds of property for the purposes of taxation. When the rules and regulations have been adopted, they shall be made available in printed form to any taxpayer of the county upon [application](#) to the County Assessor;
- [2.](#) He shall have the right to demand that all applications for building permits shall be filed in duplicate with such officers as are authorized to issue building permits in the county or any town, city or village therein, and such officers shall, not less frequently than once a month, deliver to the County Assessor a copy of such applications;
- [3.](#) He shall have the right to demand that an abstract of all conveyances and [mortgages on](#) real property shall be delivered not less frequently than once a month by the County Clerk and/or [Register](#) to the County Assessor;
- [4.](#) The County Assessor shall be responsible for the preparation of an assessment roll or rolls for each town, city, village, school and all special districts in the county as required by the General Tax Law or any special law and in accordance with the rules of the State Tax Commission for said county, town, city, village, school and special district purpose. The County Assessor shall divide the county into assessment districts and shall have the power to appoint such deputy assessors as the County Executive may deem necessary within the appropriations therefor. He shall assign and reassign one or more deputies to each district and shall supervise and direct their work in accordance with the regulations adopted by him;
- [5.](#) Upon the completion of the assessment roll, one or more copies of so much of said roll as affects (a) each city and any special districts therein, (b) each village and any special districts therein, (c) each town and the school districts and all special districts therein, whether such school or special districts lie wholly or partly within such city, town or village, shall be placed on file in one or more public places in such city, village or town. The County Assessor shall forthwith cause to be published in a newspaper of general circulation in each such city, village and town a notice stating that the roll has been completed, designating the places where the several portions of the same have been placed on file and where they may be examined during business hours every business day and at least one evening each week for not less than two weeks and giving notice of the times and places not less than 21 nor more than 30 days after

the date of such publication, at which any person aggrieved by the assessment may appear and be heard in relation thereto;

6. The County Assessor shall perform such duties not inconsistent with those enumerated herein as may be required by the County Executive or the County Board;

7. He shall perform all other duties of local assessors by whatever title they are now designated under the laws of this state not inconsistent with the provisions of this act.

Sec. 125.31. Assessment in separate tax districts to be shown.

[§ 40 of the Laws of 1937, Ch. 617]

The County Assessor, in addition to the requirements contained in the General Tax Law, shall make the assessment roll in such form that each separate city, town, village, school district and special district is shown thereon either by proper subdivision of the assessment roll or by separate columns therefor, or by both of such methods, and whenever necessary, make an apportionment of the assessment of the property between or among the tax districts in which such property is located.

Sec. 125.41. Completion of assessment roll.

[§ 41 of the Laws of 1937, Ch. 617]

The assessor shall complete the assessment roll or rolls on or before the first day of July in each year and shall provide in the notice stating that the rolls have been completed and where they may be examined, and that the board or boards of review will meet at a certain time or times and place or places to review the assessment.

Sec. 125.51. Duration of assessment roll.

[§ 42 of the Laws of 1937, Ch. 617]

The assessor shall on or before the first day of November in each year file the new corrected assessment roll with the County Board and copies of so much of said corrected assessment rolls as affects each city, village and town and the school district and all special districts lying wholly or partly therein with the said local units and thereafter such assessment roll shall be used for all purposes of taxation within such local units until a new assessment roll shall be filed in the following year and all taxes to be levied for the next ensuing fiscal year shall be levied and extended and carried out on the assessment rolls so filed with such local units.

Sec. 125.61. Special franchise assessment.

[§ 43 of the Laws of 1937, Ch. 617]

The State Tax Commission shall file with the County Assessor the statement of the equalized valuation of special franchises within the county as fixed by the State Tax Commission in accordance with the provisions of the Tax Law and the valuation of such franchises so fixed and determined shall be apportioned among the several tax districts according to the provisions of the statute in relation thereto and the County Assessor shall enter such apportioned valuations upon the assessment rolls for the several tax districts.

Sec. 125.71. Office of local assessors abolished.

[§ 44 of the Laws of 1937, Ch. 617]

The offices of assessor, board of assessors and tax commissioners in all cities, towns, villages, school districts and special districts in the county are abolished as of December 31, of the second year immediately succeeding the election at which this article is adopted, and all powers and duties of the said offices, except as they may be inconsistent with the provisions of this act, are thereupon transferred to the County Assessor. All records whatsoever of any of such offices relating or pertaining to assessment or assessment procedures shall be transferred and delivered to the County Assessor by each such office immediately upon the completion of the assessment roll of each said office during the second year immediately succeeding the election at which this article is adopted, provided that the County Assessor shall thereafter make available to any local unit of government within the county for the purpose of certiorari or other proceedings such records pertaining to the assessment roll of any such local unit of government as may be necessary for the purpose of any such proceeding or action.

Sec. 125.81. Tax rolls of local units.

[§ 45 of the Laws of 1937, Ch. 617]

The assessment rolls made and completed during such second year immediately succeeding the election at which this article is adopted, in or for any local unit of government within the county shall be the assessment roll upon which taxes are levied and collected by such local unit of government for the next fiscal year, such rolls, however, are to be made up under the direction and supervision of the County Assessor.

Sec. 125.91. Review of assessments.

[§ 46 of the Laws of 1937, Ch. 617]

The County Board shall by act establish a method of procedure designed to insure prompt and equitable determination of applications for the review or correction of assessments, which act shall, among other things, provide that hearings for the review or correction of assessments shall be held at convenient places within the county and which shall further provide a method for fair and equitable apportionment of tax liens as between the county and/or the respective local units of government within the county.

[CHAPTER 123. COUNTY TAXI AND LIMOUSINE COMMISSION](#) **[Top](#)** **[CHAPTER 128. DEPARTMENT OF ENVIRONMENTAL FACILITIES](#)**

Local Government /
County Government
Relationship Focus
Group Report

WESTCHESTER COUNTY CHARTER REVISION COMMISSION

LOCAL GOVERNMENT-COUNTY GOVERNMENT RELATIONSHIP GROUP

REPORT JANUARY 2013

Focus Group Members:

Vincenza A. Restiano, Chair
David A. Menken, Vice Chair
Raymond W. Belair
Julia P. Killian
Derickson K. Lawrence
Anne McAndrews
Florence McCue
Paul Meissner
Jane Morgenstern
Randy Sellier
Matthew P. Thomas
Dr. Ronald Volino
Gary J. Zuckerman

Mission of the Focus Group:

At the meeting held on February 23, 2012, Chair Restiano asked for a motion to incorporate in the minutes the “Mandate of the Local Government and County Government Relationship Group”. Motion by Gary Zuckerman and seconded by David Menken.

- To study the County relationship with Local municipalities for services as it relates to the charter and determine what kinds of improvements and efficiencies are appropriate.
- To review Westchester 2000 and include a discussion of Westchester 2025 as it pertains to towns and villages as a means of aiding in the improvements and efficiencies of services.
- To study the costs involved and determine savings to local governments and any additional cost to the County with the improvements and efficiencies that are appropriate.
- To study issues pertaining to planning and assessment.
- To study sales tax issues.
- To determine services that the County requires local governments to maintain.
- To review burden shifting of non-collection of county taxes from the municipalities to the County.
- To review areas of common ground to facilitate shared services.

Meeting Dates and Names and Titles of Persons Interviewed:

The minutes of the following meetings are attached as an appendix. The focus group met on the following dates:

November 17, 2011	May 31, 2012
Decembers 15, 2011	June 28, 2012
February 23, 2012	October 25, 2012
March 29, 2012	December 20, 2012
April 23, 2012	January 10, 2013.

The following people were interviewed by the focus group:

Drew Fixell, Mayor of Tarrytown and President of the Westchester Municipal Officials Association (“WMOA”)

Anne Janiak, Executive Director of WMOA

Luisa M. Iadeluca, Ed.D candidate

Michael Blau, Tarrytown Village Administrator

John Pierpont, Village of Pelham Manor Village Manager

Charles Strome III, New Rochelle City Manager

Steve Altieri, Mamaroneck Town Administrator

Richard Slingerland, Mamaroneck Village Manager.

The focus group notes that many of the speakers who made presentations to the full Commission provided valuable information concerning our areas of inquiry.

Issues Discussed:

The subjects of the first meetings focused on: 1) Agreeing on a mandate, 2) Arriving at the method of acquiring information, 3) Selection of speakers that we could interview and provide information, and 4) Obtaining documents from the County itself.

At first we discussed that members of the group could meet with elected and appointed individuals from local governments and county governments. We later invited speakers to meet with us and this proved to be very helpful.

The second meeting (December 15, 2011) with Mr. Fixell and Ms. Janiak focused on: 1) As stated in the minutes, “many informal shared services among municipalities, such as equipment sharing (e.g., jet-vac, fire department equipment, etc.) and through inter-municipal agreements (IMAs).” 2) Mandated services, and 3) Taxes.

At both the first meeting (November 17, 2011) and the third meeting (January 23, 2012) the issue of the current requirement for municipalities to guarantee tax revenues was discussed. At the January meeting a list of questions was considered that could be used for discussion with City/Village Mayors and Supervisors.

At the February 23, 2012 meeting the Mandate of the Focus Group was voted on (see above). It was at this meeting that discussion led to considering the option of inviting managers and administrators to come and speak. The group also agreed that it would be beneficial to invite Luisa Iadeluca to the March meeting.

Ms. Iadeluca presented to the group her Dissertation Defense *Investigation on Shared and Consolidation of Services in Westchester County School Districts and Municipalities to Reduce the Property Tax Burden*” Copyright©2011, Luisa M. Iadeluca, Researcher. It seems from her research that more people were interested in shared services than a consolidation of services.

At the April 23, 2012 meeting, Lester Steinman gave us insight into State law that allows us to share services without needing to change charter. Plans were made to invite managers and administrators (see list above) to our May meeting and afford them the opportunity to have the questions prior to the meeting.

The May 31, 2012 meeting proved to be so informative that our issues and recommendations began to solidify. Those minutes are attached. A methodical review of the minutes is necessary to understand how the group arrived at the issues that follow.

Subsequent meetings concentrated the issues that we would be considering and reporting on. Throughout the deliberations we were provided with information from staff on the Charter, the various County offices, and the 1988 Charter Revision Study Commission Report which proved to be immensely beneficial.

Issues Considered:

1. Communication between local governments and the County at a managerial and administrative level.

During our discussions, it became clear that the managers and administrators of local governments sometimes encountered difficulties communicating and dealing with County agencies. In order to address this concern, we believe that a charter amendment along the following lines should be considered.

The Charter should be amended to create a new position titled Intergovernmental Relations Liaison (the "Liaison"). The function of the Liaison will be to act as an ombudsman and to facilitate communications on a managerial and technical level between the appropriate County personnel and municipal administrators and managers. The Liaison shall be appointed by, and serve at the pleasure of, the County Executive. The Liaison shall have at least ten years of experience working in local or county government in a managerial or administrative function. In addition to providing technical advice to local governments and assisting with coordination between County personnel and local administrators and managers, the Liaison may, upon request, provide mediation or arbitration services to help resolve intermunicipal disputes. The Liaison will also be available upon request to facilitate and encourage the implementation of shared services on voluntary basis using intermunicipal agreements, and intermunicipal participation in capital projects. In particular, we believe that the Liaison could be useful in encouraging intermunicipal cooperation in areas such as public safety, sanitary and storm sewers and similar environmental issues, land use planning and infrastructure. See Michael Blau, Tarrytown Village Administrator, Responses to Questions attached to the May 31, 2012 focus group minutes.

2. Communications between local governments and the county at the elected official level.

During our discussions, it became clear that despite the various existing organizations, it would be useful to have a more formal and regularized procedure to facilitate communication and consideration of relevant issues among elected officials at the municipal and county level. In order to address this concern, we believe that a charter amendment along the following lines should be considered.

The charter should be amended to create a Council of Westchester Governments (the "CWG"). The members of the CWG should be the County Executive, the Chair of the Board of Legislators (the "BOL"), and all of the elected mayors and supervisors in the County. The CWG should meet on a quarterly basis. The agenda for CWG meetings should be set by a Steering Committee consisting of the County Executive, the Chair of the BOL, and three members representing the elected municipal officials as selected by

those officials on an annual basis. The purpose of the CWG is to facilitate intermunicipal cooperation and communication, and the regular presentation of diverse perspectives on matters of Countywide interest as selected by the Steering Committee. The CWG will also provide a vehicle for the informal exchange of ideas and information among elected officials who might not otherwise regularly interact.

3. Municipal guaranty of County taxes.

The focus group believes that this is an important topic that would merit consideration by the full Commission. However, it is our understanding that the Budget and Finance Focus Group has explored this topic and determined that amendments to State law would be required to address this issue.

Westchester County Charter Revision Commission –

County & Local Government Relations Focus Group

Meeting Minutes – November 17, 2011

Meeting was called to order by Co-Chairs Vinnie Restiano and David Menken.

In attendance: Co-Chair Vinnie Restiano, Co-Chair David Menken, Raymond Belair, Chris Crane, Julie Killian, Derickson Lawrence, Anne McAndrew, Paul Meissner, Jane Morgenstern, Randy Sellier, Matt Thomas, Dr. Ronald Volino, Gary Zuckerman

At the beginning of the meeting focus group member introductions were made and meeting agenda was circulated.

Chair Restiano opened the meeting by asking the members what should be the mandate of the focus group?

There were the following responses:

Gary Zuckerman – Mandate should be wide open and include a review of the relationship/ dynamics of school districts. Also the group should consider the concepts of shared services, status/future of County roads, health departments. In summary there are some things the County should be doing and some things the County should not be doing.

David Menken – David asked the question “what kind of consolidation should there be (beyond shared services?)

Julie Killian – Julie asked the question of how the focus group can be educated on exactly what are the municipalities of Westchester with the idea in mind that with home rule there is a fair amount of confusion about town, village and city jurisdictions.

Julie also inquired if there was an inventory of in-force IMA (inter-municipal agreements) between the County and local municipalities to review.

Randy Sellier – Randy stated that he strongly supported investigating the efficacy of the County Charter involving itself development powers with various local municipalities. He raised a key point of whether the County Planning Board should have advisory powers / legal authority over cross-jurisdictional development projects. He drew a deep contrast between this question and developing provisions within the County Charter addressing powers to oversee municipality mergers (something he would not be in support.)

Derickson Lawrence – Derickson’s general response to the question of what the focus group’s mandate was to keep an open mind and keep everything on the table as the group is so early in the process. David Menken reiterated the same sentiments.

Anne McAndrews – Anne pointed to the recent storm water management legislation / efforts as an example to look to for County/local municipalities working together. But also noted that this was not the first example. She pointed to current County-wide waste management and sewer district policies and infrastructure as other examples.

Vinnie Restiano – Vinnie posed a second question to the group on whether or not the as a basic premise should the focus group look at the relationships of small municipalities to the County and the relationships of the large municipalities under different lenses? Are the relationships unique enough to be study separately?

She used the issue of the County's AAA Rating and how each Westchester-based municipality is responsible for paying the property tax bill in full whether or not their local residents had made the individual municipalities whole by paying their taxes in full and on time. Is it fair for small and/or large municipalities to have to pay the carry cost of the unpaid property tax?

Derickson Lawrence – Derickson suggested further that the group may want to look at reasonable combinations but cautioned the group to appreciate the difference between "shared services" and municipal mergers.

Julie Killian – Julie asked a logistical question of which County Depts. Directly touch the local municipalities on a regular basis.

Vinnie Restiano - Vinnie suggested that the group do a study of existing local municipality relationships for mutual aid, shared services, etc...

The idea was raised to do a robust study with a cross-section of town managers to speak before the group about the nature / efficiency of the status of shared services, mutual aid and related issues in the municipalities. This concept quickly morphed into doing a "field study" with prepared questions with a variety of identified town managers / supervisors (Derickson Lawrence, Ray Belair and Vinnie Restiano)

Gary Zuckerman suggested the basic premise of the questions attempt to answer the simple questions – How does the County "help" your municipality? How does the County "hurt" your municipality? He also suggested reviewing the website <http://westchester2025.westchestergov.com/>

Paul Meisner – Paul suggested reaching out to Drew Fixell and Anne Janiak from the Westchester Municipal Officials Association.

Meeting "Take-aways"

Randy Sellier was assigned the responsibility to collate possible field research questions. Randy's email address is rsellier@vanfeliu.com.

The next meeting was set for December 15, 2011 at 8am at David Menken's office - McCarthy Fingar LLP 11 Martine Avenue, 12th Floor White Plains, NY 10606-1934.

Westchester County Charter Revision Commission –

Local Government - County Government Relationship Focus Group

Meeting Minutes – December 15, 2011

In attendance: Members - Chairwoman Vincenza Restiano, Vice-Chair David Menken, Randy Sellier, Matt Thomas, Dr, Ronald Volino; Guests – CRC Chairman Richard Wishnie, Drew Fixell, Anne Janiak (Westchester Municipal Officials Association, WMOA); Staff - Chris Crane.

Chair Vinnie Restiano and Vice-Chair David Menken called the meeting to order. Chair Restiano recognized CRC Chairman Richard Wishnie. She also recognized guests Drew Fixell, current Westchester Municipal Officials Association (WMOA) President and Tarrytown mayor, and Anne Janiak, WMOA Executive Director. Mr. Wishnie provided a brief overview of the Charter Revision Commission (CRC) and noted that CRC is seeking a one-year extension to complete its activities.

Mr. Fixell briefly described WMOA. Members and guests then commenced discussion on services and relationships among County and local governments. Mr. Fixell and Mr. Selliers noted the many informal shared services among municipalities, such as equipment sharing (e.g., jet-vac, fire department equipment, etc.) and through inter-municipal agreements (IMAs). Mr. Fixell said he believed many people in the County are not familiar with the various County services.

Discussion turned to mandated services. Mr. Fixell questioned what portion of County taxes is used for mandated services versus discretionary services. Ms. Restiano asked how County mandates affect individual municipalities. Mr. Selliers inquired what services or obligations are presently mandated by the County upon local governments. It was noted that understanding the breakdown of mandatory and discretionary services is important and should be developed.¹ Mr. Menken inquired whether municipalities formerly or presently collect taxes/fees that are provided to other governments. He noted that an analysis of amount expended versus amount of services received would be useful.

Mr. Wishnie mentioned local municipalities share sales tax revenue, which prompted further discussion on sales taxes. Mr. Fixell said the distribution of sales tax revenue is disconnected from the demographics of the County, such as population, which negatively impacts business development in municipalities. Using Tarrytown as an example, he explained the proceeds of sales tax collected by Village businesses will not proportionally return to the Village, because of the Village's smaller population. Mr. Sellier noted that villages are precluded from imposing sales tax. Mr. Fixell suggested evaluating new options for sales tax distribution, such as the County releasing its sales tax revenue to municipalities to be applied to local capital projects. Mr. Wishnie and Ms. Restiano expressed interest in further studying sales tax distribution.²

Members concluded discussion with Mr. Fixell and Ms. Janiak and thanked them for their attendance. Discussion then turned to review of the County/Local Government Focus Group 'mandate' and the discussion questions for mayors and supervisors. Ms. Restiano expressed preference for the term 'improvements and efficiencies' instead of 'consolidation'. Mr. Menken noted the Westchester 2025 master plan/website should be considered in conjunction with the Westchester 2000 report. He also suggested that other subject areas for discussion include housing, economic development, and land use/zoning. It was suggested that the order of questions be revised to facilitate discussion with municipal staff. Ms. Restiano noted she would update the documents with the revisions discussed.

The next focus group meeting was set for January 17, 2011 at 8 am³ at David Menken's office - McCarthy Fingar LLP 11 Martine Avenue, 12th Floor White Plains, NY 10606.

¹ A description of mandatory and discretionary services in the County budget is available at <http://westchesterlegislators.com/Resources/RoleOfCountyGovernment.pdf> . See chart of page 2 of document.

² The 1984 City/County Task Force Report and 1985 County/Town/Village Task Force Report included discussion and recommendations on sales tax collection and distribution. These reports are available in the DropBox, under 'Reports'. The NYS Office of State Comptroller website provides periodic reports on sales tax collections and trends. <http://www.osc.state.ny.us/localgov/index.htm> .

³ Meeting time later switched to 7 pm.

Final As Amended

WESTCHESTER COUNTY CHARTER REVISION COMMISSION LOCAL GOVERNMENTS FOCUS GROUP MINUTES February 23, 2012

Attendance: Richard Wishnie, Raymond Belair, Derickson Lawrence,
Anne McAndrews, Florence McCue, Paul Meissner,
Vincenza Restiano, Gary Zuckerman

County Staff in Attendance: Christopher Crane

Guests: Lester Steinman

MINUTES

Focus Group Chairwoman Restiano called the meeting to order at 5:45 PM.

V. Restiano reported that David Menkin, Focus Group Vice-Chair, was out of town and that after he returned, the finalized questions for local government officials would be distributed.

V. Restiano reported that she had spoken with Maria Luisa Iadeluca who is available to intern with the focus group. Maria had completed a dissertation on local governments and consolidations to relieve tax burdens. The group agreed that hearing from Maria would be very helpful. Her attendance will be sought for our next meeting.

V. Restiano led us in editing the wording of the **Focus Group Mandate** (Mission.) It was decided to make the following changes:

1. Change the second bullet to read: “to study which level of government is most efficient in producing services.” A discussion was had as to whether efficiency is the only goal to be sought.
2. Change the third bullet to add the word *county* after *to* and before *planning*, and add *the potential for* between *and* and *assessment*.
3. Change *determine* in the fifth bullet to *identify the*.
4. The sixth bullet was discussed at length, ie. the burden county tax collection by local municipalities.
 - i. Local municipalities are required to borrow (bond) any county tax portion they are unable to collect. They are required to submit to the county 100% of the taxes billed regardless of whether they are actually collected.
 - ii. The focus group thought it was important to determine how much has to be borrowed by each of the municipalities in order for them to pay the county tax bills in full.
 - iii. It was agreed that CRC Chairman Wishnie would send a letter to each municipality requesting this information.

Final As Amended

The Focus Group Mandate was approved as amended.

Motion to incorporate Mandate in minutes by Gary Zuckerman and seconded by David Menken.

Mandate of the Focus Group

- To study the County relationship with Local municipalities for services as it relates to the charter and determine what kinds of improvements and efficiencies are appropriate.
- To review Westchester 2000 and include a discussion of Westchester 2025 as it pertains to towns and villages as a means of aiding in the improvements and efficiencies of services.
- To study the costs involved and determine savings to local governments and any additional cost to the County with the improvements and efficiencies that are appropriate.
- To study issues pertaining to planning and assessment.
- To study sales tax issues.
- To determine services that the County requires local governments to maintain.
- To review burden shifting of non-collection of county taxes from the municipalities to the County.
-
- To review areas of common ground to facilitate shared services.

The Focus Group discussed its next task, which is to take our amended list of questions and to visit a variety of local government officials to obtain information. It was decided that Village/City Managers, rather than the chief executives, would be the best one to interview in each location.

The following Managers will be contacted and asked if they will attend a focus group meeting: New Rochelle, Mamaroneck, Tarrytown, Pelham, New Rochelle, Scarsdale. It was decided to invite them one at a time.

The intern, Luisa Maria Iadeluca, will be invited to the Focus Group's March Meeting and Chuck Strong, New Rochelle City Manager will be invited to the April meeting.

Final As Amended

Gary Zuckerman brought up the County/Village Report as well as the Westchester 2000 Report and encouraged us to review them. They are located in the dropbox.

Chris Crane provided us with a current list of IMAs. (Inter-municipal Agreements from the county database) These are agreements entered into between an individual municipality and the county. There are 43 municipal and 2 town/village agreements represented in this list of IMAs.

Chairwoman Restiano stated that the next meeting of the Focus Group will be on March 22nd, 2012 at 5:30 pm on the 8th floor of the county office building.

Focus Group meeting adjourned at 6:55 pm.

Respectfully submitted,
Florence McCue

Westchester County Charter Revision Commission
Local Government—County Government Relationship Focus Group
March 29, 2012

In attendance: Chair: Vincenza Restiano, Vice-Chair David Menken, Anne McAndrews, Jane Morganstern, Matt Thomas, Florence McCue, Randy Sellier, Dr. Ronald Volino, Gary Zuckerman, Paul Meissner.

Guests – CRC Chairman Richard Wishnie, Lester Steinman.

Absent: Julia Killian, Raymond Belair, Derickson Lawrence, Bert Sellier

The entire meeting was turned over to our guest speaker who presented to the group her Dissertation Defense during the meeting that had taken place on November 22, 2011:

Investigation on Shared and Consolidation of Services in Westchester County School Districts and Municipalities to Reduce the Property Tax Burden

She stated the problem: NY has the highest local taxes in America and Westchester ranks first with the nation's highest property tax at the estimated median of \$9,945.

She proceeded to explain how she conducted her investigation on shared and consolidated services in Westchester County. The shared and consolidated services would be between school districts and municipalities...the goal was to reduce the property tax burden.

She proceeded to present the research questions.

Defined the terms: Shared Services and Consolidation of Services.

The population defined; methodology explained.

Findings discussed. It seems that more people were interested in shared services than a consolidation of services.

The group had questions after her presentation and we decided that we would continue our discussion at the next meeting to see how we should proceed based on her findings from her study.

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
LOCAL GOVERNMENT/COUNTY GOVERNMENT RELATIONSHIP FOCUS GROUP
MINUTES
April 23, 2012

Members in Attendance: Vincenza Restiano, Richard Wishnie, Steve Mayo, Paul Meissner, David Menken, Bertrand Sellier, Matthew Thomas, Gary Zuckerman, Raymond Belair

Commission Counsel: Lester Steinman

MINUTES

Chair Restiano called the meeting to order. Discussion took place about the shared services and consolidated services. Lester gave us insight into State law that allows us to share services without needing to change charter.

Discussion proceeded to take place as to about the benefit to interview various municipal leaders to get their insight as to what they are responsible for that can be done by the County; and, what in turn can be returned to a local government. A liaison might be needed.

It was determined that we:

- 1) Invite some leaders here to a two or three hour meeting.
- 2) We should invite managers from various municipalities in the County.
- 3) There would be a panel format.
- 4) Hold the meeting here and invite:
 - a. Michael Blau
 - b. Stephen Altieri
 - c. Charles B. Strome, III
 - d. John Pierpont
 - e. Richard Slingerland
 - f. Jerry Faiella
 - g. Al Gatta
- 5) Date discussed—since there was a third Thursday in May 31, 2012 was chosen.
- 6) Discussion of questions took place again
- 7) Chairman Wishnie would draft a letter and questions would be distributed ahead of time so the panel could prepare answers.

Meeting was adjourned.

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
LOCAL GOVERNMENT/COUNTY GOVERNMENT RELATIONSHIP FOCUS GROUP
MINUTES
May 31, 2012

Members in Attendance: Vincenza Restiano, Richard Wishnie, Herman Geist, Steve Mayo, Paul Meissner, David Menken, Jane Morgenstern, Bertrand Sellier, Matthew Thomas, Gary Zuckerman

County Staff in Attendance: Stacey Dolgin-Kmetz, Chris Crane, Melanie Montalto

Commission Counsel: Lester Steinman

Guests: Michael Blau, Stephen Altieri, Charles B. Strome, III, John Pierpont, Richard Slingerland,

MINUTES

Chairwoman Restiano called the meeting to order at 5:45 PM and proceeded to ask everyone to introduce themselves. Michael Blau, Steve Altieri, Charles Strome III, John Pierpont all gave a brief history on themselves. Michael Blau is presently Village Administrator in Tarrytown and has been involved with municipal administration for 30 years. Steve Altieri is presently Town Administrator in Town of Mamaroneck and has worked in local government for 35 years. Chuck Strome is currently City Manager of New Rochelle, and he has been manager for the last 10 years and with New Rochelle for 23 years altogether. John Pierpont is presently Village Manager of Pelham Manor and has been involved with municipal administration for 30 years.

Mr. Sellier asked what the differences are between the positions of administrator and manager. Mr. Blau replied that an administrator was the chief administrative officer for a municipality, whereas a manager was the chief administrative and chief executive officer. In contrast to a manager, an administrator normally does not have authority to hire and fire personnel. A brief discussion ensued. Richard Slingerland joined the focus group meeting. He noted he is Village Manager of the Village of Mamaroneck and has worked in local government for 25 years.

The guest administrators proceeded with their presentation to the focus group, responding to questions previously forwarded by the group. Mr. Blau described the relationship between Westchester County and local municipalities, along with the sharing of services. Mr. Blau read his response to Question No. 1. Mr. Steinman asked that a copy of his responses be made available for the record, and a copy of the questions along with Mr. Blau's responses is attached.

Mr. Blau indicated that he was finished answering Question No. 1 and asked if any of his fellow administrators or managers had anything to add. Mr. Strome followed up by stating one of the reasons that the question was so difficult to answer was because of how much things vary by municipality. He cited New Rochelle's own civil service commission, along with Community

Development Block Grant (CDBG) funding (which it pursues on its own), and Legacy projects resulting in the City's takeover of all County roads.

Mr. Pierpont addressed the other end of the spectrum, discussing Pelham Manor and shared services between them and the County. He underscored the panels' consensus that certain services are handled very well by the County, such as solid waste and recyclables management. To Mr. Menken's inquiry on the size of Pelham Manor, Mr. Pierpont stated that the Village has approximately 5,500 residents and the Village employs 27 police officers, 17 in fire department, 12 in DPW, and 5 in administration. Mr. Strome said that New Rochelle's population is 78,000, with 160 police officers (40 lost in attrition), 150 firefighters (20 lost in attrition), 120 DPW workers (previously at up to 200), and 2 in administration. Mr. Pierpont discussed certain services and how in many cases it was more efficient for the County to handle those. These include sewage treatment systems, emergency management and training services. He said the County's role succeeds in such instances because the County is not the "first responder" in service, and this applies regardless of the size of the municipality.

Mr. Zuckerman inquired whether there are area(s) where the county could provide more in relation to services, along with areas where the County should do less. He questioned whether property assessment (but not revaluation) could be handled differently. He also asked if the County has forced services upon the municipalities, such as road maintenance with the Legacy program. Mr. Strome felt that regionalization of fire services could be very useful. He said the City's assumption of County roads through a recent Legacy project (affordable housing) was feasible, partly because the City already plows snow on the County roads in the City.

Mr. Altieri thought that this varies on a case-by-case basis and depends on the situation. A threshold question is whether the County can perform the service more efficiently and would residents have the same 'closeness' with a government organization on essential services. Mr. Pierpont described a recent example in which it was concluded that the County would be more efficient than individual municipalities in reducing infiltration into sewers and such tasks were not an essential service. He also identified mosquito control as a good partnership example between the County Health Department and municipalities. He felt the County must remember the municipality is an equal partner in such efforts (rather than a junior partner).

Mr. Zuckerman asked the panel whether the Charter or code could be amended in order to make it easier for the municipalities to choose which services the County delivers, specifically in a way that it was optional. The group further asked about optional services for municipalities. Mr. Altieri thought such amendments could be helpful in producing collaboration. Mr. Blau agreed that in theory this would improve efficiency, but that a fiscal analysis had to be done beforehand.

Mr. Steinman asked if there are provisions in the charter that make it difficult when working with the county (obstacles to collaboration). Mr. Slingerland responded affirmatively, and that it was at both the County and State level. He noted that the problem with shared services is that at the local level, people tend to prefer familiar faces in the essential service positions. He also said there were also issues with enforcing local laws, which can vary in their reach among urban or rural areas (e.g., urban centers are more highly regulated).

Chairman Wishnie brought up the issue of shared police services and preference for local employees, specifically mentioning Town of Ossining. He discussed the current arrangement in which Ossining contracts for County police. He believes the Town is obtaining better police service under this arrangement, especially because the Town is typically limited by constraints such as sick leave, and vacation. He noted that the same County officers are working in the community, allowing residents to know their officers. Mr. Slingerland commented that services from higher levels of government often have higher technical proficiency (training). In addition, service delivery to larger populations allows for economies of scale (higher per capita ratio per officer). Specialized services are typically handled better at higher government levels (e.g., police detectives). Mr. Strome commented that larger municipalities are challenged with providing benefits, and a contract for County police services in New Rochelle was very unlikely.

Ms. Restiano asked whether regionalization of sewer services in exchange for local ownership of roads was worthwhile. Mr. Blau said that the “Legacy” model in exchanging roads could be feasible, but he said there must be adequate evaluation of the road condition to produce a fair exchange. Mr. Steinman mentioned a previous task force of the Westchester Municipal Officials Association (WMOA) to evaluate this subject, and the outcome that the County could not dedicate resources and withdrew from discussions. Mr. Altieri suggested a Charter requirement that the County and municipalities periodically evaluate which level of government should deliver service(s).

Mr. Menken observed that the Charter does not appear to designate an individual or office for municipalities to work with on evaluating services and their delivery. The panelists agreed that an ‘office of local governments’ or ‘local liaison’ in the County would be helpful for municipalities.

As this subject related to Mr. Strome’s responses, he noted he would respond to Question Nos. 7 & 8. The obligation for municipalities to guarantee tax payments to the County is a challenge, and it creates a cash flow problem. The obligation for municipalities to collect taxes for the County is not a problem. Mr. Strome said there is no counterpart in County government to their position as administrators and managers, and this creates a communication gap. As appointees, the County department commissioners are closely tied to the County Executive, which creates a political tone in all discussions with the commissioners. While the political decisions by elected officials are necessary, he believes that productive discussions on administrative matters could be achieved at a ‘manager level’, in preparation for later decisions by elected County and municipal officials.

Ms. Restiano asked how such individual or office could be established (e.g., ombudsman, liaison), given that transition to a manager form of County government seems unlikely. Mr. Strome noted that tension between branches of County government and the appointment process would complicate the viability of this position. Chairman Wishnie noted that the position could have a finite term of office, preventing an early termination. Mr. Strome suggested specifying credentials in the Charter to limit purely political appointments. Mr. Altieri commented that municipalities don’t want to work with one branch of County government and then alienate the other branch (Executive, Legislative). Mr. Strome said the ombudsman/liaison needs a degree of

independence from both branches of government. Mr. Mayo questioned whether an ombudsman/liaison is consistent with a strong executive (strong mayor) form of government.

Chairman Wishnie asked about the council of governments with the County Executive and whether this should be a mandatory meeting that should be built into the Charter. Mr. Blau noted that specificity in the Charter was important for this to succeed, and both County branches of government must ‘buy-in’ to the concept. Mr. Altieri said that previous County representatives had effectively served this role as ‘Executive Officers’, even though they had political ties, because they also understood the managers’ function/role and this enhanced communication. Mr. Sellier asked the panelists what kind of specifications they would like to see in such a position. Mr. Strome suggested that the commission look at the New Rochelle Charter and further suggested having a clause where people can only be discharged “for cause” to address the issue of partisanship. (Mr. Strome later forwarded Article VI, City Manager, of the New Rochelle Charter, which is attached to these minutes).

Mr. Blau continued by addressing Question No. 2 put forth by the group on shared services. He said the Charter should be amended to clearly specify which programs and services are to be provided by the County government to its residents. If not designated to the County, then it would be presumed that the municipality would provide the service(s). Concerning the cost sharing in Question No. 3, Mr. Blau noted there are many intermunicipal agreements (IMAs) that exist for a variety of services between County and local governments (example - organic yard waste disposal), as well as among local governments (example – library shared between adjacent villages). As such, sharing of services between governments is already established.

The threshold criterion is whether the shared services via IMA are cost-effective in such circumstances. In the example of organic yard waste transfer, the County presented this program to the municipalities, and it has been effective. However, there are other County services which may not be similarly effective. A discussion on the County Board of Election ensued, contrasting the much larger size of County election staff versus municipal election staff. Mr. Altieri expressed the challenges occurring with an impoundment of election machines, requiring County police rather than local police. He said the election administration could be accomplished with less staff at the municipal level. Ms. Dolgin-Kmetz said the changes in federal law required the County to conduct the election administration. Mr. Strome noted there is apprehension that turning services over to the County would unnecessarily increase the administration and staff levels. Ms. Restiano acknowledged this concern, while also stating that the County Board of Elections must have staff from both political parties.

Mr. Pierpont commented that the concept of aggregation in the private sector to reduce unit costs (economies of scale) does not necessarily translate to the public sector. On the contrary, the aggregation can add waste into the process, thus increasing unit costs. These characteristics cause municipalities reluctance in having the County deliver services. He said over time the municipalities have observed an expansion of County administration and regulation in various areas, which has been accompanied by larger staffs.

Mr. Pierpont addressed Question No. 4 concerning issues that arise in developments between adjacent municipalities and need for more input. He stated that such situations are usually settled

amicably. In such cases, administrators or managers can communicate with their counterparts in the adjacent municipality. Also, the procedures in the State Environmental Quality Review Act (SEQRA) can further dialogue on issues of concern (e.g., development of Environmental Impact Statements, EIS). Local governments have legitimate authority to make land use decisions after conducting a 'hard look' in its review procedures. He said sometimes intractable situations arise. He noted the availability of judicial review of local determinations [Article 78 proceeding].

Although there are plenty of structural opportunities in place for comment and dialogue, Mr. Pierpont thought a county review is worthwhile, as is currently performed by the County Planning Board. He felt the Planning Board's review is generally limited to a technical evaluation of project impacts. Upon query by Mr. Steinman, the panel didn't think that the County Planning Board should have a stronger role in reviewing projects (e.g., local supermajority necessary to override, as is the case in other NY counties). The panel did not suggest any changes to the present County review process. Mr. Pierpont thought that using the County as a mediator couldn't hurt.

Mr. Meissner inquired whether formalizing a mediation process in the Charter for land use disputes would be helpful. Mr. Strome related his experiences with different large retail projects, one near Pelham Manor and one near Mamaroneck. In the case of the first project, communication with the other manager resolved the concerns. For the other project, intermunicipal concerns were larger and involved municipal legislative bodies, and the dispute became more entrenched. Mr. Strome said a mediation process involving a County representative might have been useful in that situation and could generally be helpful for mediating intermunicipal disputes.

Ms. Restiano asked whether the ombudsman/liaison might facilitate this mediation. Mr. Strome thought it could and said Planning Department staff should be available to provide technical comment and assistance in such cases. Mr. Meissner said this mediation could be within the County Planning Department, but this would be separate from the liaison function discussed earlier on operational issues. Mr. Menken confirmed that the County Planning Department works closely with the County Planning Board in project evaluation. Following up on his earlier question, Mr. Steinman asked whether, in cases of intermunicipal dispute on a project, the County Planning Board should have authority to provide comments that are binding upon the municipality unless over-ridden by a supermajority vote. Mr. Strome disagreed, saying he preferred a referral of disputes to the County for mediation, prior to litigating the dispute in court. Mr. Piermont said nothing should preclude the County from being involved in such mediation, but this should not be mandatory and the County should not decide such disputes.

Mr. Sellier related a previous disagreement between Pelham Manor and Mount Vernon concerning a project, in which the Mount Vernon mayor insisted on proceeding with the project despite the intermunicipal disagreement and despite the County Planning Board's advisory comments that opposed aspects of the project. Court(s) later upheld the Mount Vernon mayor's decision. Mr. Sellier asked whether this experience illustrates what is contemplated. Mr. Strome thought the final decision rests with the host municipality, but the process should include the availability of mediation procedures, which may introduce areas of compromise.

Mr. Zuckerman inquired whether the County Planning Board and Department were available for consultation or mediation in this particular dispute, and panelists said the County would not have taken on this role for this dispute. Mr. Strome stated he does not support any supermajority requirement, particularly because the municipality's residents are better situated to make these determinations. Mr. Pierpoint said, when evaluating and negotiating, it is important for all affected communities to understand that home rule authority is paramount for determinations. Mr. Steinman noted that the courts, WMOA, and municipal associations have all researched solutions for such disputes, and they are difficult to resolve. The group identified numerous examples of such disputes, such as the General Motors site (Sleepy Hollow/Tarrytown), Pepsi, (Somers/North Salem), Ridge Hill (Yonkers/Greenburgh), Bowman Ave. (Rye/Rye Brook), Home Depot (Port Chester),

The group moved to Question No. 5, in which Mr. Pierpont stated it is difficult to judge whether and which municipalities obtain 'fair value' for County services, particularly because different services vary among municipalities (e.g., Legacy opportunities). He said the panel agrees that fair value can be obtained when services are cost-effective and adhere to Charter requirements, and the evaluation of organization, cost, and service delivery needs to continuously occur.

Mr. Altieri then addressed Question No. 6 concerning County mandates upon municipalities. The first mandate he discussed was the municipalities' obligation to collect and guarantee their share of county taxes. He described the magnitude of the obligation they faced along with an issue with the time frame. For example, Mamaroneck Town has a \$31 million annual budget, but the Town has a tax liability of approximately \$140 million, not including its own taxes (altogether about \$160 million). It usually requires 2-3 years to complete the tax collections for a single fiscal year. In response to Mr. Wishnie's question, Mr. Altieri said that municipalities do obtain some interest on the tax collections ('float'), but this is only meaningful when interest rates are substantive and municipalities still need to maintain reserves of the collected funds to 'carry' the float. He acknowledged the County's Triple-A bond rating which is related to the tax guarantee. He said municipalities may be more comfortable with the tax collection obligation if an accommodation can be made that the municipality is only required to submit the funds it has been able to collect by the October 15 date (rather than the entire tax liability by Oct. 15). He also mentioned Putnam County, in which the County collects taxes on behalf of the municipalities but charges the municipalities a 1% fee.

The second issue was the civil service mandate. Mr. Altieri described the increasing paperwork burden for municipalities, which is exacerbated if there is substantial hiring of seasonal employees. For example, municipalities must conform their reporting format with the County format. While acknowledging that NY State may dictate some reporting requirements, he said the municipalities would welcome opportunity to explore possible changes with the County. Mr. Strome commented that New Rochelle's civil service commissioner might be willing to conduct some of the County's role, assuming this is permissible under NY State law, and may be able to provide the function more efficiently, as many of the City's employees are similar positions to other municipalities.

Mr. Slingerland noted that, in his experience, the civil service system becomes a barrier for individuals to obtain jobs because, despite qualifications and willingness to work, such persons

might not have taken a particular test or be on a particular list. If a municipality has prescribed requirements for a particular job, the requirements and corresponding list of individuals become fixed, which precludes any chance for a hiring board to deviate from the list, notwithstanding a given applicant's qualifications, etc. He suggested allowing each hiring board freedom to set its own hiring criteria, when new (successor) boards become established. Mr. Slingerland acknowledged this would require change to NY State law.

Ms. Restiano said the County could be an advocate to gather these various issues from the municipalities and negotiate modifications with the State on their behalf, and this might be a role for the previously discussed ombudsman/liaison. Mr. Slingerland commented that the County still would be an enforcement agent. Ms. Restiano noted the civil service structure, while problematic, was originally established in order to correct previous problems. Mr. Altieri observed that some tweaks, rather than complete revision, could be productive (e.g., a rule of 'ten' instead of rule of 'three'; making some positions exempt rather than competitive). Mr. Wishnie said Westchester's delegation to the NY Legislature would be the appropriate officials to contact for initiating these discussions with the State.

Mr. Slingerland initiated discussion on Question No. 9 regarding abolishing County government. At the outset, it depends on the types of services that the County would be relinquishing and which level of government would pick up the service (local or State). The simplest, overall response to Question No. 9 is 'No', but as discussed earlier, certain direct services may be more appropriate for municipalities to provide, and some services, such as indirect services, may be more appropriate for the County to deliver. It seems apropos right now to consider re-assigning services to the appropriate level of government. Mr. Slingerland also gave an example of the regionalization of parks, in which a cooperative network of parks facilities could enable useful sharing of facilities but avoid overuse of some popular facilities. Upon his observation that this might not require a Charter revision, Ms. Restiano commented that the Commission also intends to forward suggestions which do not require a Charter amendment.

Mr. Slingerland stated that the evaluation of services requires a balance of local needs against regional perspectives. He identified the Mamaroneck stormwater management project at Gardens Lake, as an example of shared funding and scope of capital projects [the project benefited both Town and Village of Mamaroneck and involved funding from the municipalities, the County, and others]. Intermunicipal and regional participation on capital projects is worthwhile and may require Charter revision to effectuate more thoroughly. Such approaches can lower unit costs and leverage economies of scale (example – catch basin cleaning). Mr. Slingerland strongly agreed that local services should be scalable. Using fire service as an example, he contrasted the benefit of this approach for the City of New Rochelle with the prohibitive costs of such an approach in Mamaroneck Village, in which volunteers provide fire service. Mr. Steinman noted that certain benefits (e.g., property tax, insurance) would accompany regionalization of fire services and Pace [Michaelian Inst.] had researched this. Mr. Slingerland thought regionalization of sewer and stormwater services would be worthwhile and recommended further evaluation.

Ms. Restiano inquired whether unions would accept regionalized fire services. Mr. Strome said there would probably be some union acceptance, and union acceptance would be critical to

making any changes and would require significant discussions. Ms. Restiano observed that mutual aid already occurs widely, thus supporting a regional approach. Mr. Mayo said the correlation between personnel levels (employees) and overall service is indicative of whether a regional approach is feasible, and he contrasted sewer services (less employees) with fire services (more employees). Mr. Slingerland replied that the current EPA consent order for Sound Shore municipalities underscores regional aspects associated with this service (sanitary sewers, stormwater).

Mr. Sellier questioned whether the County is expanding its role on sewage services and why the delineation of local and County role is confined to whom owns the infrastructure. Mr. Blau remarked that this inquiry is well-suited to an evaluation of costs. In considering a take-over of municipal sewer infrastructure, the County had declined to assume a larger role simply because County sewer district costs would increase. However, assigning this role to the County may have been sensible, when viewed on a unit cost basis. Mr. Strome noted that overall municipal budget balancing affects the analysis (choosing whether to lay off fire/police versus stormwater staff). Mr. Steinman said that obtaining municipal participation on regional approaches can be difficult when the member municipalities feel others are not equally contributing, and he cited the experiences with the LISWIC stormwater intermunicipal group as an example.

At the conclusion of the discussion, Ms. Restiano thanked the panelists for their participation. Chairman Wishnie also thanked the panelists and expressed his admiration for their service. Mr. Mayo noted the importance of including County legislators in these meetings and to try and get more public input into the charter revision process. Chairman Wishnie noted that measures are being taken to address these concerns. The meeting adjourned at 7:28 PM.

Questions for Discussion with City/Village Mayors and Supervisors
May 31st, 2012 at 5:30 p.m.

1. Please Comment on your relationship with the county with respect to each of these functions:
 - a. Assessment
 - b. Parks/Recreation
 - c. Highways/Bridges
 - d. Sanitary Sewers
 - e. Public Health
 - f. Planning
 - g. Land Use & Zoning
 - h. Housing
 - i. Economic Development
 - j. Infrastructure
 - Water
 - Solid Waste/recycle
 - Storm Water Management
 - k. Emergency services
 - Law enforcement/Police
 - Fire
 - Ambulance
 - Dispatch
 - Disaster
2. Are there charter changes or policies, procedures laws or regulations that you would like to see enacted so that you may better perform your local functions. Are you aware of any specific provisions of the county charter, or policies, procedures laws or regulations that you believe make it more difficult to do your job
 - a. If so, please explain the problem
 - b. What do you see as the main impediment to change?
3. What opportunities, if any, do you see for cost savings from sharing of services with other governments? Do you see any role for the county with respect to shared services?
4. Do you believe that there is a need for more input from local communities that are affected by developments in adjacent communities? Do you see an enhanced role for the county in these circumstances?
5. Do you think the citizens of your community receive fair value for the county taxes they pay?
6. What mandates concerning provision of services are imposed on you by the county? Do you have any concerns about the impact of those mandates on the functioning of your operations? What if anything would you change?

7. How does the guarantee of payment of county taxes affect your community? Would you want that changed?
8. What is your level of communication with county decision makers?
9. Do you believe that abolishing county government in New York would be cost-effective? Why/why not?
10. Which stakeholders are critical to the implementation of a shared and/or consolidation of services delivery models?*
11. What barriers, legal, policies, etc. impede the implementation of a shared and/or consolidation of services delivery models?*

*See Iadeluca, L.M. (2011). Investigation on Shared and Consolidation of Services in Westchester County School Districts and Municipalities to Reduce the Property Tax Burden (Unpublished doctoral dissertation). St John Fisher College, Rochester, NY

Response to Question No. 1 (Village Administrator Michael Blau)

Different sized communities have different relationships with the County in terms of utilization of county services. The larger municipalities have larger staffs that handle some of the functions that the smaller communities utilize with the County, such as the Department of Human Resources. The four large cities serve as their own civil service entity. The other municipalities in the County utilize the County for civil service purposes.

Assessment – the local municipalities serve as the assessing authorities in Westchester County. This function is provided by all cities and towns and some of the villages. Some villages have turned over assessment authority to the Town in which the Village is located. The County provides minimal assessment services and the services provided serve strictly the County's purposes and not the local municipalities.

Parks and Recreation – The parks and recreational facilities and programs serve to compliment the programs and facilities provided by the local municipalities. The County facilities often provide recreational opportunities that the local governments cannot provide, either due to funding or due to various reasons, such as insufficient open space for the creation of a golf course. Another example is the County's swimming pool facilities that complement local municipal facilities by providing larger venues

Highway/Bridges – Historically, County roads were created to provide connections among communities. At the time the County roads were constructed, the connections made sense and the local governments either were not in a position to construct the connector roads or such connections would only extend to the municipal boundaries. Currently, the County maintains the roads and bridges on County roads and contracts with the local municipalities for snow and ice removal on the County roads in the winter months. The County has been attempting to convey the County roads to the local municipalities, often through the Legacy program which provides funding for park projects and the local municipalities agree to take ownership of the County roads. There can at times be distinct differences in the level of maintenance of county roads and adjacent local roads. In the case at hand, the County has to provide incentives to the local municipalities in order for the local municipality to consider accepting the ownership, which includes the ongoing maintenance of the road or bridge.

Sanitary Sewers – The responsibilities associated with sanitary sewers and wastewater management are split between the County and the local governments. The County owns and operates the wastewater treatment plants throughout the County via the County sewer districts. The County also maintains and operates the truck lines that transmit the sanitary sewage to the treatment plants. The local municipalities are responsible for the local collection system, which feeds into the trunk lines. The plants and trunk lines are paid for through county property taxes. The local municipalities have proposed in the past that the entire sanitary sewer system, from collection through treatment, be a County function to be paid from the property taxes paid to the sewer districts, but the County is not supportive of this concept. This would be an good example of regionalization of a critical municipal service.

Response to Question No. 1 (Village Administrator Michael Blau)

Public Health – The County has full responsibility for public health and this service has worked out well for the local municipalities. This is a government function that is performed well on a larger scale as opposed to the smaller governments attempting to provide a similar service with a lesser budget.

Planning – The primary contact that the local towns, villages and small cities have with the County in regards to Planning is through the Community Development Block Grant program. Westchester County is considered an urban county and as such, receives a CDBG grant entitlement. Those grant funds are used to fund primarily projects, but also services to local communities via an Intermunicipal agreement known as the Urban County Consortium. The Planning Department also serves as a resource for the local governments, providing maps, studies and other services.

Land Use and Zoning – The local governments can request assistance from the County's Planning Department in regards to development and land use proposals. The County does not have any authority in regards to local land use decisions. The County has established a guide for development throughout the County, known as Patterns for Westchester, and by law, land use and development proposals must be submitted to the County Planning Board for review of the proposals. However, due to the fact that New York State is a strong home rule state, the County has no authority in this area.

Housing – The County provides funding to assist in the development of fair and affordable housing, but similar to decisions regarding Land Use and Zoning decisions, the County has no authority in regards to the development of housing in a local municipality. The County can and does provide assistance when requested, but only when requested.

Economic Development – The County's involvement in regards to economic development is significantly different based upon the size of the community. The larger cities have their own economic development entities, while many of the smaller local governments work through the County and the County's Industrial Development Agency. The County can serve as a facilitator, but has no direct authority in regards to local economic development decisions. In fact, the IDA, which can provide property tax breaks for economic development purposes, will not pursue such incentives until the local government agrees to the concept.

Infrastructure

Water – The County is responsible for the provision of water to certain water districts in the County. Other municipalities that have local municipal water departments, work through a consortium of communities such as the Westchester Joint Water Works or are provided water from a private water company. The County has taken a lead role in regards to obtaining water from the New York City Delaware Aqueduct, coordinating the project for a County Water District and a number of municipal water purveyors. In addition, the County Health Department takes a lead role in coordination with the New York City Department of Environmental Protection when addressing both planned and

Response to Question No. 1 (Village Administrator Michael Blau)

emergency shut-downs of DEP aqueducts. The Health Department is ultimately responsible to assure that potable water is provided to County residents, but the Health Department must work with and through all of the various water suppliers in order to fulfill this responsibility. This is another example of a municipal service better delivered on a more regional basis than by individual communities.

Solid Waste/Recycle – This is one function where the County has taken the lead on behalf of its local governments and has provided a product that is widely used and effective in its operation. The local governments in the County provide solid waste and recycling collection, but once the garbage and recycling is collected, the waste product must be disposed of by the municipality. The County has provided, through Intermunicipal Agreements with local governments in the County Solid Waste District, a means to dispose of the garbage and recyclables. The garbage is trucked to the burn plant in Peekskill for disposal. The recycling is hauled to the Material Recovery Facility in Yonkers. The garbage disposal and transfer activity is partially paid for from a County property tax specifically for that purpose as well as a tipping fee paid for by the local governments with an IMA with the County. There is no tipping fee associated with the recyclables delivered to the Material Recovery Facility. In the case of solid waste and recycling, the County and the local governments saw a need for the County to take the lead to address an issue and the County has created an operation that works for the residents of the County.

Storm Water Management – The responsibility for storm water management rests with the local governments and not the County. Stormwater management is a regional problem and not a localized matter, since the stormwater travels across municipal boundaries. Westchester County has mapped the stormwater basins and it is clear which municipalities are located in particular stormwater areas. There is currently a model of regional cooperation among municipalities in the Long Island Sound stormwater basin known as LISWIC. That regional model was established by the local municipalities in that area of the County without the assistance of the County government. However, there is a role for the County in regards to stormwater. First, to assist the municipalities in the development of a financing tool to pay for intergovernmental stormwater management; and second, to demonstrate to municipalities in other stormwater basins the value of cooperative planning. The County government has recently adopted new storm water legislation that will hopefully provide the framework for the county to assist local governments with this regional issue.

Emergency Services

The manner in which many of the services are provided to the local municipalities by the County in regards to emergency services presents a preferred model of cooperation among the County and the cities, towns and villages, as well as the fire districts. The local governments provide the direct services to the residents of their respective communities and the County provides support services to those first responders in the local governments. Oftentimes, the support services are specialized and it proves to be most cost effective to fund these services through the County government since the services are used infrequently by the individual municipalities. But when the provision of

Response to Question No. 1 (Village Administrator Michael Blau)

the service is considered on a county-wide basis, the service delivery makes sense. In addition, the County coordinates the mutual aid programs among the local municipalities.

Law Enforcement/Police –The County provides specialized services and equipment to the local police departments at the request of the local police. Examples of services include SWAT and accident investigation and a bomb squad. The County also operates the Police Academy on behalf of the local governments. Examples of equipment include helicopter service. The County has also contracted with a few local governments to provide police services. Obviously it is a local decision to contract with the County for direct police services but it is questionable whether such service is more cost effective or the level of service is equal to what is provided by a local police department.

Fire – The County provides the fire training center for the ongoing training of firefighters throughout the County. The County also coordinates regional fire services through battalions, whereby the various fire departments in a battalion meet and discuss issues of regional concern in the provision of fire and emergency services. The County has specialized services for fire purposes, such as a hazardous materials response team and a technical rescue team.

Ambulance – The County coordinates ambulance services through an entity known as the Regional Emergency Management Support Council or REMSCO. REMSCO has obtained funding to provide trunk radios for the ambulance corps to communicate with each other on the same frequency. They have also purchased supplies for the local corps (smart triage kits). REMSCO provides monthly training programs which is available to all local corps as well as mass casualty drills. REMSCO also reviews all call reports issued by the local corps.

Dispatch – The County provides dispatch service known as 60-control should a local municipality make the decision to opt into the system. Mutual aid call-outs are also handled through County dispatch. The requesting community contacts County dispatch to request mutual aid and the protocols established as to which communities will be contacted for mutual aid purposes are then instituted. County dispatch also serves as a back-up dispatch service for the local fire departments and ambulance services should their pager system become inoperable. This system has proven to be very effective.

Disaster – The disaster assistance provided to the local municipalities by the County has been extremely beneficial in the overall management of the disaster by the local governments. The County provided twice daily telephone conference calls to update the municipalities on the status of utility restoration and county recovery assistance. The conference calls provided a forum for all municipalities to convey their needs and to obtain assistance that was being coordinated at the County level. The County operates an Emergency Operations Center which provides the local governments a centralized location to seek assistance during and after a disaster event. The County also provides pre-disaster services such as the provision of emergency shelter supplies. The county was also instrumental in assisting local government with communications with Con Edison, utility services, and the Red Cross.

The Council may submit on its own initiative a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in Sections 29 and 33 of this local law or in the Local Finance Law) to be voted upon at any general city election or special election called for the purpose, and should a majority of the votes cast at such election favor such proposition, such ordinance shall be enacted, repealed or amended accordingly.
[L. 1943, c. 710 (Title 34).]

Section 38. Later action by Council on matters that have been passed upon by a vote of the electors.

An ordinance which has been repealed by vote of the electors shall not in any substantially similar form be again adopted by the Council within one year, unless such ordinance is an "initiated ordinance," without the same being approved by the electors.

ARTICLE VI City Manager

Section 39. Appointment and qualifications.

The Council shall appoint a City Manager who shall be the administrative head of the city government. He shall be chosen by the Council solely on the basis of his executive and administrative qualifications. During the first three years after this Charter shall have become effective, the Council shall appoint no one as City Manager (except as a substitute to serve temporarily in the absence or disability of the regularly appointed Manager) who has not had three years' service as City Manager. No person elected to the Council shall, during the time for which he is elected, be chosen as City Manager.

Section 40. Term and removal.

The City Manager may be appointed for an indefinite period to serve at the will of the Council. When appointed for an indefinite period, before the Manager may be removed he shall, if he so demands, be given a written statement of the reasons alleged for his removal and shall have the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. The action of the Council in suspending or removing the Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension and removal in the Council. Until the City Manager is chosen, or in the event of his disability or suspension, the Council may designate someone to perform the duties of City Manager during such period.

The City Manager may be appointed for a definite term not to exceed two years, at the expiration of which term the City Manager may be reappointed from time to time in the discretion of the Council, but in no event shall any one period of appointment be for more than two years.

The Council may employ a City Manager for a definite term not to exceed two years under a written contract of employment, which contract shall contain such

terms and conditions as may be specified by the Council. Such contracts of employment may be renewed from time to time in the discretion of the Council but no one renewal period shall be for a period in excess of two years.
[Enacted by Local Law No. 8-1940 (December 2, 1940).]

Section 41. Responsibility of Manager; powers of appointment and removal.

The City Manager shall be responsible to the Council for the proper administration of all affairs of the city placed in his charge, and to that end, subject to the civil service provisions of this Charter, and except as otherwise provided herein, he shall have the power to appoint and remove all department heads and such officers and employees in the administrative service of the city as may be assigned by law.

The City Manager shall have the power to appoint and remove a Deputy City Manager, who shall perform such duties as he shall direct. He shall designate the deputy or a department head to undertake the responsibilities and powers of the City Manager and have the title of Acting City Manager during his absence or disability. During the period of a vacancy in the position of City Manager, the Acting City Manager shall have the responsibilities and powers of the City Manager and perform his duties under the title of Acting City Manager, until such time as the City Council may remove him and appoint an Acting City Manager or until such time as the City Council may appoint a City Manager.

Appointments made by or under the authority of the City Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term, unless for temporary service not to exceed 60 days.
[Amended by Local Law No. 3-1982 (May 18, 1982); Local Law No. 10-1997 (July 16, 1997).]

Section 42. Removals.

Except as otherwise provided in this Charter and except as may be required by the Civil Service rules if applicable thereto, any officer or employee of the city appointed by the City Manager or another appointing authority may be laid off, suspended or removed from office or employment by the respective appointing authority. Verbal or written notice of layoff, suspension or removal personally given to an officer or employee or written notice mailed by certified mail return receipt requested to such person's usual place of residence shall be sufficient to put any such layoff, suspension or removal into effect. If the civil service rules apply, then the officer or employee sought to be removed shall receive such notice and hearing as such civil service rules require, and all further proceedings therein shall be pursuant to such civil service rules. The decision of the Manager or other appointing authority in any such case shall be final. A copy of the written statement of reasons given for any layoff, suspension or removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Manager or other such authority, shall be filed as a public record in the office of the Manager.

[Amended by Local Law No. 10-1997 (July 16, 1997); Local Law No. 2-1998 (January 20, 1998).]

Section 43. Council not to interfere in appointments or removals.

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the administrative service for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the city, either publicly or privately.

Section 44. Duties of Manager.

It shall be the duty of the City Manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that the ordinances of the city and the laws of the state are enforced, except as otherwise in this Charter provided; to sign all contracts, deeds or leases that may be authorized by the Council; to make such recommendations to the Council concerning the affairs of the city as may seem to him desirable; to keep the Council advised of the financial conditions and future needs of the city; to prepare and submit to the Council the annual budget estimate; to prepare and submit to the Council such reports as may be required by that body; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council.

Section 45. Rights of Manager.

The City Manager shall be entitled to a seat in the Council but shall have no vote therein. He shall receive notice of all meetings of the Council and shall attend the same. He shall have the right to take part in the discussion of all matters coming before the Council, other than those relating to his own removal or suspension.

Section 45A. Additional powers of the City Manager.

Where there is a vacancy in the office of the department head of any department or during the absence or disability of any department head, the City Manager may perform all the duties and assume all the powers of such department head. Notwithstanding any provisions of this Charter to the contrary, the City Manager may from time to time and for such period as the City Manager deems necessary during the vacancy, absence or disability of a department head designate a city employee or a city officer, other than an elected officer, to act as a deputy in any administrative department. However, an increase in salary shall not be granted to such employee or officer by reason of designation unless such increase is authorized and fixed by the Council.

[Enacted by Local Law No. 1-1941 (February 17, 1941); amended by Local Law No. 1-1951 (February 19, 1951); Local Law No. 2-1998 (January 20, 1998).]

ARTICLE VII
Administrative Departments

Section 46. Departments and department heads.

**Westchester County Charter Revision Commission
Local Government-County Government Relationship Focus Group**

June 28, 2012

Agenda

- 1) Attendance
- 2) Minutes of last two meetings
 - a. April 23, 2012
 - b. May 31, 2012
- 3) Discuss meeting with managers.
- 4) Discuss how to proceed with information from the manager's panel discussion.
- 5) Adjourn

WESTCHESTER COUNTY CHARTER REVISION COMMISSION
LOCAL GOVERNMENT/COUNTY GOVERNMENT RELATIONSHIP FOCUS GROUP
MINUTES
June 28, 2012

Members in Attendance: Vincenza Restiano, Richard Wishnie, Derickson Lawrence, Florence McCue, Jane Morgenstern, Paul Meissner, Gary Zuckerman,

Commission Counsel: Lester Steinman

MINUTES

Chair Restiano called the meeting to order. Acknowledged minutes done by Chris Crane and inter Kerry Ann Stout for a job well done. Minutes from April 23, 2012 were reviewed. Motion to accept as written by Gary Zuckerman and seconded by Derickson Lawrence.

Minutes from May 3, 2012 were reviewed and there were corrections on pages 2, 3 and 6. The following corrections were submitted:

Mr. Steinman asked if there are provisions in the charter that make it difficult when working with the county (obstacles to collaboration). Mr. Slingerland responded affirmatively, and that it was at both the County and State level. He noted that the problem with shared services is that at the local level, people tend to prefer familiar faces in the essential service positions. He also said there were also issues with enforcing local laws, which can vary in their reach among urban or rural areas (e.g., urban centers are more highly regulated).

Chairman Wishnie brought up the issue of shared police services and preference for local employees, specifically mentioning Town of Ossining. He discussed the current arrangement in which Ossining contracts for County police. He believes the Town is obtaining better police service under this arrangement, especially because the Town is typically limited by constraints such as sick leave and vacation

Mr. Steinman noted that the courts, WMOA, and municipal associations have all researched solutions for such disputes, and they are difficult to resolve. The group identified numerous examples of such disputes, such as the General Motors site (Sleepy Hollow/Tarrytown), Pepsi (Somers/North Salem), Ridge Hill (Yonkers/Greenburgh), Bowman Ave. (Rye/Rye Brook), Home Depot (Port Chester), Home Depot (Port Chester).

Mr. Strome commented that New Rochelle's civil service commissioner might be willing to conduct some of the County's role, assuming this is permissible under NY State law, and may be

able to provide the function more efficiently, as many of the City's employees are similar positions to other municipalities.

Motion to accept minutes as amended Gary Zuckerman and seconded by Derickson Lawrence.

Discussion took place concerning:

- 1) Assessments
- 2) Municipal requirement to pay County taxes whether they are collected or not
- 3) When County wants to take over various functions there should be a method to do that
- 4) There are Charter provisions that make it difficult to make changes and some require a referendum that allow a consensual IMA between the Local government and the County.
- 5) Gary Zuckerman said we need to back up what we send as a referendum item (i.e. assessment items). We should separate out items that can be changed with or without a referendum.
- 6) Recommendations from the May meeting need to be studied. Derickson Lawrence will work with Lester Steinman and work out a methodology to distill the findings. This will be up from discussion at the next meeting.
- 7) Once we know some items it was suggested that we could then air them out at a Municipal Officials meeting.
- 8) It was decided that we should go through with interviews with officials in local governments as was discussed at the onset of these meetings.

Next meeting was set for July 26, 2012.

Respectfully submitted,
Vincenza Restiano

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
LOCAL GOVERNMENT/COUNTY GOVERNMENT RELATIONSHIP FOCUS GROUP
MINUTES
September 27, 2012**

Members in Attendance: Vincenza A. Restiano, Richard Wishnie, Herman Geist, Derickson Lawrence, Randy Sellier, Dr. Ron Volino, Gary Zuckerman, Anne McAndrews, Jane Morganstern, Paul Meissner, Matt Thomas

Commission Counsel: Lester Steinman

Minutes:

Meeting was called to order at 5:15 am by Chair Restiano. Minutes of the last meeting were reviewed. Motion to approve by Gary Zuckerman and seconded by Dr. Volino.

Lester Steinman explained the proposed methodology by Derickson Lawrence.

Discussion took place for the need to identify particular issues to present to the whole CRC committee. Gary Zuckerman commented that we should present no more than five issues to deal with but it would be better to have three or four. Richard Wishnie explained we still have a year and that we need not limit ourselves. Randy Sellier commented that we should concentrate on the charter.

It was decided that we need to review all the previous meetings and that each member should come up with a list that can be presented to the whole CRC committee. All acknowledged that help would be needed with this and that we are fortunate to have Lester Steinman assisting us. Melanie Montalto would be asked to send to the LGCG Relationship Focus Group members a set of all the minutes so they would have them readily available. Lester would attach a schedule.

There was a motion to do adjourn by Gary Zuckerman and seconded by Anne McAndrews.

**WESTCHESTER COUNTY CHARTER REVISION COMMISSION
LOCAL GOVERNMENT/COUNTY GOVERNMENT RELATIONSHIP FOCUS GROUP
MINUTES
October 25, 2012**

Members in Attendance: Vincenza A. Restiano, Richard Wishnie, Randy Sellier, Gary Zuckerman, Jane Morgenstern, Julia Killian, Steve Mayo

Commission Counsel: Lester Steinman

Minutes:

Meeting was called to order at 6:30 pm by Chair Restiano. Minutes of the last meeting were reviewed. Corrections to the minutes by Lester Steinman. Motion to approve as corrected by Gary Zuckerman and seconded by Jane Morgenstern.

Issues for further examination that can be presented to the whole CRS were discussed. Randy Sellier was the only member of the focus group to have submitted a list. That list is attached and was reviewed by the focus group. During the meeting, Gary Zuckerman emailed the attached list of issues and those issues were briefly discussed by the focus group. Gary Zuckerman came prepared to review his issues and that list was reviewed as well.

There was a motion to do adjourn by Gary Zuckerman and seconded by Jane Morgenstern.

Westchester County Charter Revision Commission
Local Government—County Government Relationship Focus Group
December 20, 2012 & January 10, 2013

The Focus Group met on both of these dates at 6:00 pm to discuss the recommendations to make to the full Commission in the Focus Group Report.

Commission Witnesses & Guests

Charter Revision Commission Witnesses & Guests

June 15, 2011	George Oros	Chief of Staff, Office of the County Executive
	Bill Ryan	Legislator, District 5
	John Nonna	Legislator, District 3
July 13, 2011	Ken Jenkins	Legislator, District 16
	Ann Marie Berg	Commissioner, Finance Department
	Larry Soule	Budget Director
September 27, 2011	Les Steinman	Wormser Kiely Galef & Jacobs, LLP; Counsel to the City of Newburgh Charter Revision Commission
	Kevin McGuire	Commissioner, DSS
January 25, 2012	Alfred B. DelBello	Former Lieutenant Governor of NYS
	Kathleen O'Connor	Commissioner, Parks Recreation and Conservation
	Timothy Idoni	County Clerk
February 23, 2012	Jim Robertson	Assistant Chief Deputy County Attorney
	Milt Hoffman	Former Senior Editor of the Editorial Page of the Journal News
	Brian Miller	Assistant County Attorney
March 29, 2012	Andrew J. Spano	Former Westchester County Executive
April 23, 2012	Ken Jenkins	Legislator, District 17
	Ed Burroughs	Commissioner, Planning Department
May 24, 2012	Norman Jacknis	Director, IBSG Public Sector, CISCO Systems, and former CIO for Westchester County
June 28, 2012	Thomas Lauro	Commissioner, Department of Environmental Facilities
	Joe Stout	Executive Director of Friends of Parks, and former County Parks Commissioner
September 27, 2012	Nick DeSantis	O'Connor Davies Munns & Dobbins LLP
October 25, 2012	Jay Pisco	Acting Commissioner of the Department of Public Works & Transportation

November 29, 2012	Ralph Butler	Former Commissioner of the Department of Public Works and Transportation
	Peter Eschweiler	Former Commissioner of the Planning Department (1969- 1991), and former Chair of the Westchester County Flood Action Task Force (2007-2011)
February 7, 2013	Frank Mauro	Fiscal Policy Institute
	E.J. McMahon	Empire Center for NYS Policy
June 20, 2013	Mark Davies	Executive Director, New York City Conflicts of Interest Board
	Dr. Stephen Friedman	Former Commissioner, Department of Mental Health; Former Commissioner Department of Social Services

Focus Group Witnesses & Guests

Charter and Code Focus Group

Charter & Codes Focus Group

March 21, 2012	Robert Meehan, Esq.	County Attorney
April 4, 2012	Sam Yasgur, Esq.	Former Westchester County Attorney, Present Sullivan County Attorney
June 13, 2012	Charlene Indelicato, Esq.	Former County Attorney
July 17, 2012	Joseph Stout	Director of Friends of the Parks, Former Commissioner of Parks, Recreation and Conservation

Budget and Finance Focus Group

Budget & Finance Focus Group

November 3, 2011	Stacey Dolgin-Kmetz	Special Counsel to Charter Revision Commission
November 10, 2011	Olivia Rhodes	Director of Fiscal Affairs, Westchester County Board of Legislators
	Ann Reasoner	Deputy Director for Fiscal Affairs, Westchester County Board of Legislators
November 28, 2011	Paul J. Noto, Esq.	Former Majority and Minority Leader, Westchester County Board of Legislators
December 9, 2011	Stephen P. Tenore	Former Chairman, Westchester County Board of Legislators
January 13, 2012	Mark Tulis, Esq.	Former Member, Westchester County Board of Legislators, Former Town Supervisor, New Castle, Chairman – Westchester Medical Center Board of Directors
March 14, 2012	Olivia Rhodes	Director of Fiscal Affairs, Westchester County Board of Legislators
	Ann Reasoner	Deputy Director for Fiscal Affairs, Westchester County Board of Legislators
	Martin Rogowsky	Former Member, Budget Chairman, Westchester County Board of Legislators
June 7, 2012	Justin Brasch, Esq.; Arthur Vietro; Fran Piskorowski, Dave Cabibbo, Bill Kay, John McGarr	Citizens Budget Advisory Committee
June 21, 2012	Larry Soule	Westchester County Budget Director
November 1, 2012	Sheila Marcotte	Westchester County Legislator, District 10

Local Government /
County Government
Relationship
Focus Group

Local Government/County Government Relationship Focus Group

December 15, 2011	Drew Fixell	Mayor of Tarrytown, President of the Westchester Municipal Officials Association
	Anne Janiak	Executive Director of the Westchester Municipal Officials Association
February 23, 2012	Lester D. Steinman	Wormser Kiely Galef & Jacobs, LLP and Counsel to the City of Newburgh Charter Revision Commission
March 29, 2012	Luisa M. Iadeluca	Ed.D candidate
May 31, 2012	Michael Blau	Tarrytown Village Administrator
	John Pierpont	Village of Pelham Manor Village Manager
	Charles Strome III	New Rochelle City Manager
	Stephen Altieri	Mamaroneck Town Administrator
	Richard Slingerland	Mamaroneck Village Manager

Executive/Legislative Relationship Focus Group

Executive/Legislative Relationship Focus Group

January 20, 2012	Dr. Gerald Benjamin	Associate Vice President - Regional Engagement Director of the Center for Research, Regional Education & Outreach
February 28, 2012	Marty Rogowski	Former County Legislator
February 28, 2012	George Latimer	Assemblyman, Former Chairman of the Board of Legislators
March 27, 2012	John Nonna	Former County Legislator
March 27, 2012	Bill Ryan	Westchester County Legislator, District 5
May 15, 2012	Tom Abinanti	Assemblyman, Former County Legislator
May 15, 2012	James Maisano	Westchester County Legislator, District 11

PowerPoint Presentations to the Commission

The Government of Westchester County

The Government of Westchester County

- History of Westchester County Government
- Structure of County Government
- Structure of Westchester County
- Guidelines for County Charters

History of Westchester County Government

- The first step toward a formal legislative body in Westchester County came in 1682 when the Governor of the Province called for election of a "general assembly of freeholders with legislative powers." One of the first orders of business for the General Assembly was the creation of ten counties, one of which was Westchester.
- During the remainder of British rule, the county had extremely limited self governing powers which were vested in a Board of Justices, consisting of five or more justices of the peace.

2

History of Westchester County Government

- In 1703, the title of supervisor replaced the office formerly known as town treasurer. When it became necessary to do something countywide, such as building a county court house and jail or transacting other business for the general benefit of the towns in a particular county, all of the town supervisors assembled for the purpose of apportioning expenses. This assemblage constituted the origin of the County Board of Supervisors.
- After the American Revolution the Board of Supervisors took over the Board of Justices and inherited their limited powers of legislation.

3

History of Westchester County Government

- Until the mid 1800's, most local legislative issues were handled at the state level, however it was becoming increasingly clear that a modernized form of county government, closer to home, that could better manage the needs of a growing population was necessary.
- Accordingly, in 1846 and 1892, the New York State Constitution was amended to expand the role of county government and the authority of the state's county boards was significantly expanded.

4

History of Westchester County Government

- Recognizing that they had to reform government to accommodate the principles of "home rule," the state legislature appointed a commission in 1914 to study the area of county government. Westchester's Board of Supervisors, in turn, appointed the "Westchester County Government Commission" to formulate a county charter.
- A series of commissions met between 1915 and 1937 and recommended various versions of a county charter that were either vetoed by the governor or defeated by voters in a countywide referendum. Finally, in 1937, the Westchester County Charter was enacted by the New York State Legislature as Chapter 617 of the Laws of 1937 and approved by the voters at the general election.

5

History of Westchester County Government

- The Westchester County Charter defined and expanded the powers and duties of the Board of Supervisors and established the office of the County Executive.
- In 1948, the Westchester County Administrative Code was enacted by the New York State Legislature as Chapter 852 of the Laws of 1948.

6

History of Westchester County Government

- Finally, as a result of a lawsuit brought by the Town of Greenburgh challenging the makeup of the Board of Supervisors as violating the "one man-one vote" principle, (established by the U. S. Supreme Court), the 45-member Board of Supervisors was abolished by the Court and replaced in 1970 with our current legislative body, the County Board of Legislators.
- Our current Board of Legislators is composed of 17 members elected every two years. Each legislator represents approximately 55,000 (2010 census) people and after every federal census, each of the 17 legislative districts is adjusted to maintain the balance of power in accordance with the "one man, one vote" principle.

7

Structure of County Government

- Counties in New York State are defined as “general purpose public corporations,” which have broad legislative powers as well as the power to tax and incur debt. The State Legislature adopted general laws to govern the nature and extent of a county’s powers which are contained in the New York State County Law.
- The New York State Constitution requires that each county have a legislative body elected by the people of such county. County legislative bodies are granted broad powers to adopt local laws in order to carry out their governmental responsibilities.
- Counties, like other local governments, also look to the State Constitution for the basic law which provides for their structure, powers and operational procedures.

8

Structure of County Government

Article IX of the State Constitution, commonly referred to as the “Home Rule” article provides:

- An affirmative grant of power to local governments over their own property, affairs and government,
- restricts the power of the State Legislature from acting in relation to a local government’s property, affairs and government, only to general laws or to special laws upon home rule request.

9

Structure of County Government

In 1964 pursuant to Article IX of the State Constitution, the State Legislature enacted a "Statute of Local Governments" in order to grant specific powers to local governments like counties. These include the powers to:

- adopt ordinances, resolutions, rules and regulations;
- acquire real and personal property;
- acquire, establish and maintain recreational facilities; and
- to fix, levy and collect charges and fees.

10

Structure of County Government

- While county government must perform as an administrative arm of state government for many purposes, at the same time it must be an independent unit of government exercising powers of its own to meet new, difficult and complex demands.
- County government provides a regional cost-effective solution for delivering services that local municipalities would otherwise be required to provide and fund through property taxes.

11

Structure of County Government

- New York State outside New York City is divided into 57 counties. While the five boroughs of the City of New York function as counties for certain purposes, they are not organized nor do they operate as county governments.
- Most of the counties in New York State still operate, as they did in the past, under the general provisions of the New York State County Law, however, 21 counties have adopted County Charters to define their functions and responsibilities to County residents.
-

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Structure of County Government

- The principal difference between a county government operating pursuant to the New York State County Law and one operating pursuant to a charter is that a county charter ordinarily provides for an executive or administrator, independent of the legislature, who administers the day-to-day affairs of county government.
- Of the 21 charter counties in the state, 17 have elected executives, 2 have appointed County administrators and 2 have appointed County managers.

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The Government of Westchester County

- Westchester County is a municipal corporation existing by reason of and pursuant to the laws of the State of New York.
- The County operates pursuant to its Charter and Administrative Code, usually referred to as the Laws of Westchester County.
- While the Charter establishes the powers and duties of the County, the Westchester County Administrative Code provides the details of the administration of County government. The Code is consistent with the County Charter since it implements the provisions of the Charter.

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The Government of Westchester County

The Board of Legislators, is the legislative and policymaking branch of Westchester County Government. The Charter and Administrative Code delineate the significant authority of the County Board.

15

The Government of Westchester County

Some of these powers include the power to:

- Create, organize or abolish departments, boards and offices and transfer their functions and duties;
- Fix the number of employees and officers in the several departments, offices and boards of the County;
- Enact laws to carry out the provisions of the Charter and provide for the enforcement of such laws by appropriate penalties; and
- Make appropriations, levy taxes and, except as provided by the New York State Local Finance Law, incur indebtedness on behalf of the County

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The Government of Westchester County

- The Chief Executive Officer and Administrative head of the Westchester County government is the County Executive, elected by the voters of the County for a 4 year term. The Charter authorizes the County Executive to supervise, direct and control, subject to law, the administrative services of the County.
- The administrative units of the County are as depicted in the organizational chart.

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The Government of Westchester County

- About two-thirds of Westchester County government's workload consists of delivering services and programs mandated by the State of New York. Some of those services are entirely funded by the state however, the state shifts a significant part of the cost of other programs, notably Medicaid, to the counties to fund.
- Less than one-third of the county budget is considered discretionary or non-mandated.

18

The Government of Westchester County

Services that are mandated by New York State Law to be provided and funded by the County include:

- Public Health
- Social Services
- Board of Elections
- District Attorney
- Corrections
- Probation
- County Clerk
- Westchester Community College
- New York State Court facilities

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The Government of Westchester County

Services provided by the County considered to be non-mandated or discretionary include:

- Parks and Recreation
- Transportation
- Labs and Research
- Public Safety
- Emergency Services
- Planning
- Mental Health
- Invest in Kids

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County Charters

- County Charters provide operating guidelines for an increasing number of New York Counties. A Charter represents a grant of authority from the State enabling the County to define its own activities within prescribed limits. Westchester possesses one of the first Charters in New York State.
- County charters originally were adopted by a special act of the State Legislature when a county was created to direct its organization and responsibilities and provide its powers.
- Currently, the New York State Municipal Home Rule Law, pursuant to constitutional direction, authorizes counties to adopt or amend charters by local law subject to county voter approval.

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County Charters

A County Charter:

- provides the basic structure and organization of county government;
- specifies the powers and authority of the county government and allocates those powers among the agencies and officers of the county; and
- prescribes certain procedures for the exercise of county powers.

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County Charters

Pursuant to the New York State Municipal Home Rule Law, a County Charter **must**:

- provide an elective legislative body to determine policy, exercise powers of local government and appropriate money;
- specify the agencies and officers responsible for the performance of the functions, power and duties of the County;

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County Charters

A County Charter may:

- provide for the appointment or other means of selection of county officers. (Westchester County Charter specifies Department Heads and certain but not all subordinate positions);
- assign administrative functions, powers and duties to elective or appointive officers;
- provide for an elected or appointed county executive. Only an elected executive may be given veto powers however, a Charter may also provide means for legislative override of such veto;
- provide for the transfer of local government functions and duties among the county and the cities, towns and villages within the County; and
- provide for the termination of the terms of incumbent officers upon implementation of the Charter or Charter changes.

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County Charters

Unless authorized by the New York State Legislature, a Charter may **not** contain provisions that:

- tax state property
- provide exemptions from taxation
- relate to state aid to local government
- divide the County or alter community boundaries
- relate to the composition of the Judiciary

25

County Charters

A County Charter may **not** override New York State Law in certain areas including but not limited to:

- imposition of taxes, the education system, public authorities, state requirements that functions be performed by or financed by local government, Municipal Home Rule Law, Election Law, or Workers Compensation Law

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County Charters

There have been 2 prior comprehensive reviews of the Westchester County Charter and Administrative Code:

- from 1957 through 1961
- from 1987 through 1988
- These reviews resulted in the enactment of various significant changes to the County Charter and Administrative Code over the years such as:

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1957-61 Charter & Admin. Code Revisions

- Various text amendments concerning County Board, County Executive, Budget Director, Finance Commissioner
- Reorganization of the Planning Dep't. and County Planning Board, replacing County Planning Commission
- Creation of Parks Recreation and Conservation Department, repeal of County Parks Commission and Recreation Commission; creation of Division of Parkway Police

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1957-61 Charter & Admin. Code Revisions (con't.)

- Amendments to Labs & Research Dep't. and defining role of Medical Examiner, Pathologist
- Recognizing NYS establishment of Westchester Community College
- Acceptance of gifts criteria
- Other text amendments concerning mandatory referenda, public welfare department, county health district, etc.

29

1987-88 Charter & Admin. Code Revisions

- County Code of Ethics revised by L.L. No. 3-1988 (Recomm'n. 77)
- Finance Commissioner performs calculation of County tax; L.L. No. 9-1990 (Recomm'n. 35)
- Dep't. of Information Technology established by L.L. No. 23-1998 (Recomm'ns. 23, 24)
- Department of Human Resources created and services consolidated by L.L. No. 1-2001 (Recomm'n. 71-73)

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1987-88 Charter & Admin. Code Revisions (con't.)

- Sewer District O&M costs consolidated, but not capital costs, by L.L. No. 17-2006 (Recomm'n. 39)
- Right of first refusal to municipalities enacted by L.L. No. 25-2001, as amended by L.L. No. 1-2010 (Recomm'n. 50)
- County stormwater program created (not agency/district) by L.L. No. 2-2011 (Recomm'n. 42)

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- We have provided copies of the following documents to assist in your Charter review:
 - County Organization Chart
 - Act establishing the Charter Revision Commission
 - Recommendations from 1988 Charter Revision Commission
 - State publication entitled **Adopting and Amending County Charters**

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Good
Luck!

33

Department of Parks, Recreation, & Conservation

18,000 acres
50 parks

Lean staff of 265 –
down from 330 in 2009

7% tax levy decrease
compared to 2011

Less than 3% of
county budget

Only \$34 per resident

75% of residents
use Parks

70% of cost covered
by revenues

PROGRESS THROUGH LEADERSHIP



2012

Westchester County Parks, Recreation and Conservation (PRC)

A leadership and performance-driven department that has stood by its philosophy of good management, accountability and doing more with less over the last decade.

PRC is the only county parks department in New York State to be accredited by the National Recreation and Parks Association (NRPA), which assures a level of accountability, professionalism and excellence to our customers.

MISSION STATEMENT

Creating life-enriching experiences at safe, clean, affordable parks through responsible leadership, and preserving our natural resources.

Pride in Parks (PIP)

Promoting accountability and continuous improvement

A comprehensive performance-based measurement system using random inspections of parks and internal services to provide management with a broad indicator of conditions.

90% of parks reviewed receive a passing grade.

PIP stresses proactive accountability by achieving positive outcomes rather than explaining poor results.

Other PIP philosophy elements:

- ❖ ***Yearly employee evaluations***
- ❖ ***Site visits*** to discuss issues and conditions.
- ❖ ***Data*** reviewed to detect productivity factors.
- ❖ ***The Compass***, electronic employee newsletter.
- ❖ ***Parks intranet*** used as an administrative tool.
- ❖ ***Annual staff conference*** promotes PRC values.

PRC Values

PERFORMANCE: Staff exhibits competency, initiative, decisiveness, follow-through and works as a team.

RESPECT: Employees respect customers, co-workers, government, PRC's goals and visions.

COMMITMENT: Employees have passion, enthusiasm, loyalty and integrity, and to "own" their responsibility.

PRC

PRC Academy

Management training and staff development are coordinated under the PRC Academy, which is supported by the Friends of Westchester County Parks, Inc.

THE PROGRAM'S COMPONENTS INCLUDE:

Boot Camp an intensive training seminar providing in-depth training.

Annual staff conference brings together employees to review accomplishments and discuss challenges.

Management retreat to discuss achievements and challenges.

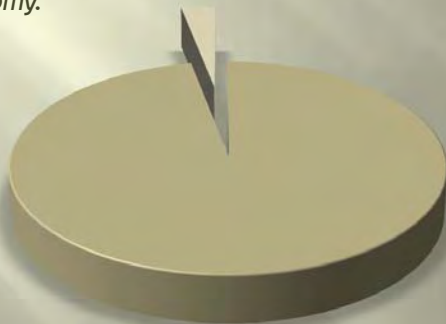
Customer service training system-wide of education of the importance of treating visitors with respect.

Specific training instruction and education for ride operators, pool management and maintenance staff.

External staff training provides employees needed training through outside seminars and conventions.

Economics... doing more with less

PRC has managed its finances wisely by making adjustments, changes and reductions before the current economic crisis. Policies of leadership and values are used when augmenting or changing services with the end result of providing the same or higher quality. The economics of PRC go beyond yearly budgets through impact on the local economy.



■ County Budget ■ PRC

BUDGET FACTS 2012

Operating Budget

- ❖ 3% decrease in operating expenses
- ❖ 7% tax levy decrease
- ❖ 70% of cost made in revenues
- ❖ \$34 per resident per year
- ❖ Less than 3% of county budget

Staff Reduction

- ❖ Staff of 265 today, compared with 330 in 2009
- ❖ 116 fewer positions since 2002

Service Cut Savings

- ❖ Sprain Ridge Pool will remain closed
- ❖ Bicycle Sundays program fully underwritten by sponsors Con Edison and Friends of Westchester County Parks
- ❖ Redeployment of staff

Consolidated Services

- > Reorganizing the administrative public information office and the Playland marketing division to create the department-wide Marketing and Public Relations office .
- > Consolidation of administrative functions and duplicate functions at Playland in human resources, accounting and other services.

Over the years, PRC has analyzed its administrative services department-wide with the result of consolidation to best serve the public and help lessen the tax burden.

Creating and Shaping External Support

PRC actively seeks external support from many sources including Friends of Parks, other friends groups and sponsors and partners. External support helps to augment county finances to provide for services that otherwise would not be funded.

Friends of Parks has renewed its pledge to support and enhance Westchester's parks, promote their value to the economic, social and aesthetic vitality of our community, and stimulate public participation, interest and support.

In addition to financial support, the Friends advocates for PRC and maintains a keen focus on environmental issues.

OTHER FRIENDS GROUPS

Just as the Friends of Parks supports and advocates the department as a whole, several parks, including Lasdon, Marshlands Conservancy, the Trailside Nature Museum and Muscote Farm benefit from the involvement of friends groups of their own. These groups give generously to provide enhancements to the parks they support.



Sponsorship and Partners

Many area businesses have discovered that partnering with Westchester County Parks is not only a good philanthropic move but it also exposes their company and their message to three million people who visit county parks each year. Sponsors enhance entertainment and programming and foster goodwill and support from other groups.

Among the most successful partnerships for PRC have been those forged with media outlets, enabling wider reach through advertising and reciprocal agreements.



Actively Sees Input from the Public

Public opinion allows for honest evaluation of quality of services, pricing, operations and conditions and yields invaluable information.

PRC conducts yearly surveys, on-line surveys, user surveys and treats emails and correspondence as surveys.



Citizen's Survey 2007 (conducted every 10 years)

In 2007-2008 a citizen's survey helped determine recreation preferences and priorities for residents.

- > 75% of respondents visited at least one park over the last year.
- > 84% of households who have visited parks rated them as either excellent or good.
- > Playland is the site visited most often in the recreation facility category.
- > Kensico Dam Plaza is the most-visited county park.
- > 50% + of households use the county's walking, hiking and biking trails.

PRC Invests in the Present and Future

PRC operates 50 parks and facilities, with an aging infrastructure. Good management skills are used to determine infrastructure, renovation or rebuilding needs.

CAPITAL PROJECTS AND PLANNING

This division keeps county parks properties viable, beautiful and safe by developing, coordinating and administering millions of dollars of capital programs.

They work closely with the county's Planning and Public Works departments, with outside agencies including NYSDEC, NYCDEP, the Army Corps of Engineers and local municipal governments, and with many private firms specializing in architecture, construction and related industries.

RECENTLY COMPLETED PROJECTS INCLUDE:

- ❖ Croton Point seawall stabilization
- ❖ Saxon Woods Golf Course fairway renovation
- ❖ Tibbetts Brook Pool water slides

PROJECTS NEAR COMPLETION INCLUDE:

- ❖ Playland bathhouse renovation
- ❖ Tibbetts Brook Park bathhouse renovation



Legacy Program and Inter-Municipal Agreements (IMAs)

PRC partners with other county departments and local municipalities on projects such as Legacy fields and inter-municipal agreements to operate various properties.

The Legacy program protects and preserves open space while enhancing opportunities for active recreation by creating ball fields and other recreational facilities. Many fields have been built including in the villages of Rye Brook, Larchmont and the cities of New Rochelle and Yonkers. Some fields, such as ones in Mount Pleasant and Tibbetts Brook and Saxon Woods parks are built on county parkland and administered and maintained by the appropriate local municipality.

IMAs allow for local municipalities to operate a county park or parkland inclusive of taking on the responsibility of maintenance and operations. Kingsland Point Park in Sleepy Hollow and Oscawana in the Town of Cortlandt are some examples.

Legacy and IMA programs are examples of county government working with local municipalities to consolidate and share services and offer new and enhanced facilities to many communities

General Maintenance

Pro-active rather than Re-active

This mobile PRC team operates as pro-active rather than re-active. General Maintenance has skilled tradespeople who provide the technical services, materials and equipment to support the infrastructure and advanced maintenance needs of 50 park facilities.

The team completes hundreds of planned maintenance projects per year, along with major construction projects like rebuilding the Camp Morty facility at Mountain Lakes. General Maintenance completed all site work for the county's September 11th Memorial.

Projects such as roof and heating replacement programs, pump and motor replacement program, facility inspection program and fire, health and safety programs, along with regular inspection and repair of infrastructures and mechanical and electrical systems.

And when emergencies arise, General Maintenance responds round the clock.



Parks

This division is responsible for the day-to-day operation and maintenance of a large portion of PRC's 18,000 acres and nearly 50 separate park facilities including active regional parks, four pools, two beaches, plus miniature golf courses, picnic areas and thousands of acres of lawns and meadows.

Examples of this division's expanding responsibilities:

- ❖ Operation of the "Brook" at Tibbetts Brook Park
- ❖ Operation of the renovated V.E. Macy Park



Recreation

This division is responsible for providing activities and programming that promote social, mental and physical health. This is accomplished by organizing large-scale social, cultural and athletic programs for county residents. Programs for senior citizens, the developmentally disabled, youth, teens and adults are offered year-round.

Popular activities include:

- > Bicycle Sundays
- > Slam Dunk Tournaments
- > Outdoor Movies
- > Summer Camps

Recreation also manages Kensico Dam Plaza.



Golf Westchester

PRC is responsible for the operation of six 18-hole golf courses located in the north, central and south.

With a softened economy, new golfers have been attracted to courses because of affordability and quality conditions.

A commitment to facility improvements and customer service has ensured success during an overall downturn in number of golfers.

Revenues come from greens fees, cart rentals, restaurants, pro-shops, outings and community events and tournaments.

265,000 rounds
Zero tax levy
\$10 million annual
revenue



Conservation/Historic Preservation

Environmental and preservation programs and services are a hallmark of PRC's commitment to conservation and historic preservation. The responsibilities include developing and implementing science-based conservation policies and programs, overseeing passive-recreation county parkland including nature preserves, conducting biodiversity field surveys, advising on natural asset management and use policies.

The division most recently implemented the county's deer management program.

The division also operates:

- >Lasdon Park and Arboretum
- >Muscoot Farm
- >Summer Ecology Camps
- >Art in Parks

Sustainability and green operations are also an ongoing initiative.

An active Volunteers in Parks program recruits and supervises corps of volunteers who provide a host of services in the parks. That accounts for approximately 25,000 total hours (\$500,000 value).



Playland

America's first totally planned amusement park and prototype for today's successful theme parks.

Staff is responsible for operating and maintaining 50 rides and attractions, a boardwalk and seaside walk, a pier, a lake for boating, a lakeside picnic grove, beach and swimming pool.

Entertainment is also a major component of the Playland experience.

Park revenues come from park admission, parking, private catered outings, group sales and concessionaire contracts.

RFP for the future of Playland is in phase three.

It is one of only two amusement parks nationwide to have National Historic Landmark status and is recognized worldwide.



Westchester County Center

This is the civic center of Westchester, providing a venue for more than 2,000 entertainment, social, cultural, civic, educational, recreational and athletic events each year. The schedule provides for a combination of income-producing commercial events and community activities. It is also home to the Westchester Art Workshop.

The center manages three area parking lots, is a Ticketmaster location as well as a site to purchase MetroCards and park passes.

It is operated as a cost center with close to zero tax levy over the last decade.

Major events include:

- > Royal Hanneford Circus
- > Sesame Street Live
- > WWE Wrestling



Playland Ice Casino

Westchester's premier indoor ice skating facility operates three rinks providing a venue for public skating, skating school programs and rentals for parties, groups and private events.

There is also community programming such as weekly teen and family skating nights and a partnership with the New York Rangers.

Playland Ice Casino is the home ice and training facility for the Manhattanville Valiants hockey teams.

It is a park division that operates with close to zero tax levy.

Special events include:

- > Halloween Skate Party
- > Turkey Bowl
- > Skate with Santa
- > St. Patrick's Day Skate Party



PRC Sells

Marketing and public, customer and media relations are treated as priority functions in PRC. There is an awareness that all of these elements matter when attracting and keeping customers.

Marketing and Sales

Maximizes sales in every revenue-producing scenario by analyzing data, determining what the public will buy, pricing and making recommendations based on current trends.

In addition to traditional marketing methods, the division makes the most of web-based technologies.

> Facebook and Twitter are used to communicate.

> 50,000+ in Parks "E-Club."

> E-blasts to all members

> Playland interactive website construction is complete.

> Successful on-line sales programs



Public and Media Relations

Marketing interfaces with the public and news media on a professional level and maintains relationships that benefit PRC's objective to keep a clear message.

Crisis management has become a main component of this function

Customer Service

This is the clearinghouse for the public's expressed concerns and issues

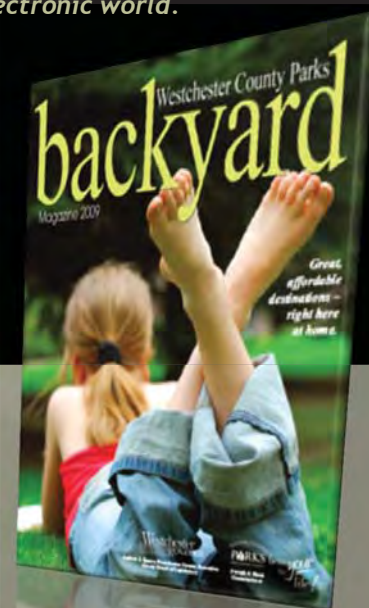
Customer service tracks and monitors the progress of all correspondence and assures that every concern is addressed, misunderstandings resolved and compliments acknowledged in a timely and professional manner.

Graphic, Website and Audio/Visual Management

Highly skilled graphic artists translate image, message, programs and services into visual images that reach any target market from, print and electronic (web).

An audio/visual component compliments marketing efforts. A trained professional is responsible for television production, videos, park videos, outdoor movie productions, seminar and a studio at the County Center.

Visual presence is of paramount importance in a rapidly changing electronic world.



Human Resources

Maintains personnel files for all 268 full-time positions and more than 1,000 seasonal employees, and conducts recruitment seminars, processes payroll and administers the leave system.



Information Technology

Efficient and effective communication is key to a department that serves the public, and IT works in tandem with the county on project management. They constantly explore new and improved web-based systems including on-line golf reservations, e-club direct marketing and cashless systems at Playland.

Administering PRC

The day-to-day business is what keeps parks functioning at an optimum level. A \$49.7 million budget is developed and administered in a logical way based on goals, mandates and economically sound use of funding through strict accounting and auditing practices.



Concessions

A significant source of revenue, contributing over \$5 million annually by administering more than 100 license agreements for food services, golf professionals, equestrian stables and amusement rides. Parkland leases with municipalities and rental residences are also maintained.



PROGRESS THROUGH LEADERSHIP

PARKS

2012

Board of Acquisition & Contract (A&C) Historical Context and Overview

Board of Acquisition and Contract (A&C)

Historical Context and Overview

Historical Perspective

- The Board of A&C was created in Article XII (sections 61 -63) of the Westchester County Charter, which was approved by the New York State Legislature in 1937. *See Chapter 617 of the Laws of New York 1937 at pages 1340 – 41. The County Charter was approved by the majority of the voters in the General Election of 1937 pursuant to sections 133 & 134 of the Laws of 1937, Chap. 617.*
- The members, powers and duties of the Board of A&C as created in 1937 are very similar to the Board today.

2

1937 Powers and Duties

- The composition and purpose of the Board when it was first created was as follows:
- **"§61. Board created; powers and duties.** There shall be a board of acquisition and contract which shall consist of the county executive, the commissioner of public works, and the chairman of the county board.

3

1937 Powers and Duties cont'd

- The board of acquisition and contract shall contract for and acquire all lands, buildings and other real property , the purchase of which has been authorized by the county board, and shall award all contracts for the construction, reconstruction, repair or alteration of all public works and improvements."

4

Current Powers and Duties

- The composition and purpose of the Board today is as follows:
- §161.01: "There shall be a Board of Acquisition and Contract which shall consist of the County Executive, the Commissioner of Public Works and Transportation and the Chairman of the County Board. ..."

5

Current Powers and Duties cont'd

- "The Board of Acquisition and Contract shall contract for and acquire by purchase or condemnation all lands, buildings and other real property, the acquisition of which has been authorized by the County Board, and shall award on behalf of the county all contracts, including but not limited to contracts for the construction, reconstruction, repair or alteration of all public works or improvement, and

6

Current Powers and Duties cont'd

- excepting contracts authorized under section 161.11 to be executed by the Bureau of Purchase and Supply, and excepting also contracts authorized under section 161.11 to be made by the head of any department, board or commission for matters relating to the maintenance and/or operation of such department, board of commission."

7

A&C Does Not Approve All County Contracts

- As noted at the end of §161.01 there are two exceptions to A&C's authority:
 - 1.) Contracts to be executed by the Bureau of Purchase and Supply, per Section 161.11 ("Purchase" contracts)
 - 2.) Contracts to be made by the heads of departments, boards, or commissions, per 161.11 ("Short form" contracts)

8

Background –Purchasing Contracts

- To understand A&C's jurisdiction, it is necessary to define Purchasing contracts.
- Purchasing contracts are for supplies materials and equipment and some services related to equipment (e.g. installation, servicing).

9

Purchase Contracts are not approved by A&C

- Although 161.01 only identifies the Bureau of Purchase and Supply as being authorized to execute Purchase contracts, the current 161.11 actually enables two bodies to execute Purchase contracts:
- §161.11(1) (a): "The authority to execute contracts for the purchase, sale, rental, maintenance or repair of supplies, materials, and equipment and the services incidental thereto is delegated to the Bureau of Purchase and Supply, except that with respect to the Westchester Community College, such authority is delegated to the President of Westchester Community College, or his duly authorized designee, subject to the approval of the Board of Trustees of the Westchester Community College to be exercised in accordance with the procedures prescribed by law: provided, however, that the authority delegated hereunder shall not extend to contracts for the rental, leasing or licensing of equipment at a rate of \$3,000.00 or more per month." (emphasis added)

10

Purchase Contracts are not approved by A&C

- Accordingly, County and WCC Purchase contracts are not subject to the approval of A&C—except if you are renting, leasing, or licensing equipment at a cost of more than \$3,000/month, in which case A&C approves the contract.

11

"Short form" contracts are not approved by A&C

- §161.11(1)(c) "...the County Executive may, by written authorization, empower the head of any department, board or commission to execute contracts on behalf of his department, board or commission, without the need for approval by the Board of Acquisition and Contract, provided such contracts do not exceed in total amount the maximum set forth in said written authorization, which authorization shall have been previously approved by the Board of Acquisition and Contract." (emphasis added)

12

Short forms cont'd

- That subsection is the basis for what over time came to be called a "short form" contract.
- The contract document is not necessarily shorter, rather the approval process is shorter, as the department head does not need to go to A&C in order to execute the contract.

13

Short Forms cont'd

- The Board of A&C complies with the requirement under 161.11(1)(c) for its prior approval of the County Executive's written authorization to the heads of departments, boards and commissions by adoption of a resolution, generally at the beginning of a County Executive's term.
- Once A&C gives the County Executive the necessary approval, the County Executive typically gives most departments the same authorization that has been used for over two decades: a contract amount not to exceed \$20,000 and a term not to exceed 1 year.

14

A&C Approves All Other Contracts

- If a contract does not fall under the two previously mentioned exceptions in the law – i.e., Purchasing contracts and "short forms," then it must be approved by the Board of A&C.

15

Contract Execution Requirements

- §161.11(1)(b) provides: "All contracts, except those contracts to be executed in the manner provided by subsection a. hereof [*purchasing contracts*] relating to matters which have been the subject of an appropriation by the board of legislators and which have been approved by the Board of Acquisition and Contract and the office of the County Attorney, may be executed by the head of the appropriate department, board or commission pursuant to a written authorization signed by the County Executive. Such authorization shall require the approval of the Board of Acquisition and Contract and, in addition, may contain such other limitations as the County Executive deems appropriate." (emphasis added)

16

Board of A&C Resolution Content: Budget Box & Subject to County Appropriation

- The legally-required approval of A&C necessary to comply with is carried out by the adoption of a resolution at a meeting of the Board.
- In order to record that a contract being approved has a valid appropriation, Board of A&C resolutions have a "budget box" at the bottom which identifies the source of funding for the contract.
- Since operating funds are appropriated annually, resolutions for contracts funded by the operating budget contain a condition that they are "subject to County appropriations" if the contract goes beyond the fiscal year.

17

Who can Execute the Contract Approved by A&C?

- In addition, A&C resolutions contain a final clause that says -
- "RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to execute and deliver any and all documents and to take all action necessary and appropriate to effectuate the purposes hereof."

18

Who can Execute the Contract Approved by A&C?

- §161.11(1)(b) allows the County Executive to delegate the execution of contracts to "the head of the appropriate department, board or commission pursuant to a written authorization signed by the County Executive." The written authorization requires "the approval of the Board of Acquisition and Contract."
- A resolution approving such written authorizations is usually adopted by A&C at the beginning of the County Executive's term.

19

Approval by the County Attorney

- The approval of a contract by the County Attorney is required by both §161.11(1)(b) and by §161.11(1)(d): "No contract shall be executed on behalf of the county until it has been approved as to substance and as to form by the office of the County Attorney."

20

A&C's Involvement in Public Bidding

- The Board of A&C also has a role in awarding contracts that have to be put out to bid under NYS law and County law.
- §161.11(2): "Whenever any contract for public work involves the expenditure of more than \$20,000.00, the contract shall be awarded to the lowest responsible bidder by sealed bids or proposals, made in compliance with the public notice published at least once in a newspaper published in the county designated by the Board of Acquisition and Contract at least ten days prior to the day on which such sealed bids or proposals are to be opened." (emphasis added)

21

A&C's Involvement in Public Bidding, cont'd

- "The bids or proposals shall be opened publicly in the presence of at least two members of the Board of Acquisition and Contract or their representatives. The successful bidder must give security for the faithful performance of his contract, the adequacy and sufficiency of which shall be approved by the Board of Acquisition and Contract; provided, however, that the Board of Acquisition and Contract may, in its discretion, waive security requirements for contracts which are not in excess of \$15,000.00 in amount. ..." (emphasis added)

22

A&C's Involvement in Public Bidding, cont'd

- The County's bidding laws are similar to, but not as extensive as State Law (*compare §103 NYS General Municipal Law*). In certain cases, the County Charter is more restrictive.
- If County law doesn't address an issue, State bidding laws are followed.

23

Differences with State Law

- The differences between County law and NYS law are as follows:
- The threshold for bidding a contract for public works under NYS law is currently \$35,000. The County has retained the former NYS limit of \$20,000 (as quoted previously, in §161.11(2)).
- NYS law only requires 5 days between publication of the bid notice and the bid opening. The County law has required 10 days since it was first adopted in 1937.

24

Selection of a Newspaper /Setting Performance Security Requirements

- As quoted previously, §161.11(2) requires A&C to, 1.) designate a newspaper published in Westchester County to publish the bid notice, and 2.) to approve the adequacy and sufficiency of the security for faithful performance of the contract.
- Both of these requirements have traditionally been fulfilled in the resolution adopted by the Board which grants authority to advertise for the bid.

25

An Apparent Anachronism

- As quoted previously, §161.11(2) allows A&C to waive performance security if the contract won't exceed \$15,000.
- Since the threshold for bidding is now \$20,000, and the referenced performance security is only required for a bid, this clause has no apparent purpose.

26

Bidder Prequalification

- In addition to all of the foregoing, A&C also has a role in prequalifying bidders.
- Under §161.21: "The Board of Acquisition and Contract may require the prequalification of bidders on any contract, subject to such conditions or procedure as shall be established by the County Board." (emphasis added)
- The County Board of Legislators has not adopted such general conditions and procedures, but if it did, the rules and procedures must be consistent with NYS law (*See NYS General Municipal Law §103(15)*).

27

Architects, Engineers & Land Surveyors Prequalification

- However, the County Board has required prequalification of architects, engineers and land surveyors.
- §161.31: "The Board of Acquisition and Contract shall require the prequalification of architects, engineers and land surveyors by the Prequalification Professional Board and participation in their selection as consultants to Westchester County by the Professional Selection Board, pursuant to rules and procedures enacted by the Board of Legislators." (emphasis added)

28

Architects, Engineers and Land Surveyors – Prequalification cont'd

- This requirement arose because the courts of New York carved out an exception to public bidding many years ago for professional services, such as those of architects, engineers and land surveyors.
- The reasoning behind the cases was that it is not in the public interest to require government to hire the lowest priced professional.
- The case law allows government to take experience and qualifications into account when awarding such contracts.

29

Architects, Engineers and Land Surveyors – Prequalification cont'd

- In 1975, the County Board of Legislators created laws requiring rules for the prequalification and selection of architects, engineers and land surveyors.
- This requirement (i.e. §161.31) for the Board of A&C was one of those laws.
- The others are found in Chapter 277, Article V of the Administrative Code. (*see §277.81 – §277.121*) which address the Professional Prequalification and Professional Selection Boards.

30

Architects, Engineers and Land Surveyors – Prequalification cont'd

- The rules and procedures of the Board of Legislators that A&C must ensure are followed were adopted by: Act 5–1976; Act 22-1992; and Act 144-1996.
- A&C has traditionally required that the transmittal memorandum requesting adoption of a resolution to authorize such contracts (i.e. one for architects, engineers or land surveyors) recite in detail how the required procedures for prequalification and selection were followed.

31

The Administrative Code

- Chapter 233 of the Administrative Code also addresses A&C, but it says very little about the Board. For example, the description of general powers and duties is as follows:
- §233.01 "The Board of Acquisition and Contract shall have all the powers and duties and shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the County Charter, by local law, act or resolution of the County Board or by any lawfully imposed controlling provision of any act of the legislature."

32

The Administrative Code cont'd

- The majority of the Administrative Code section on A&C addresses the topic of real property acquisition—particularly rules for eminent domain (*see §233.11 – §233.391*).
- The remainder addresses the County's Living Wage Law (*see §233.401 – §233.411*).
- Notably, the County's eminent domain procedures can be difficult to reconcile with the State Eminent Domain Procedures Law. Accordingly, the Commission may wish to discuss those matters in another session.

33

Department of Planning

Westchester *PLANNING*

Westchester County Department of Planning

Presentation to Charter Revision Commission
April 23, 2012



Challenges facing the county

Sewage Treatment and Capacity

Transit and Mobility Options

Water Supply and Quality

Density in Centers and Corridors

Recreation Needs

County-Owned Facilities

Housing Market Dynamics

Biodiversity

Open Space Systems

Stormwater Management and Flooding

Population Changes - Aging and Immigration

Waterfront Access

Energy Sources and Supply

Intermunicipal Cooperation

Travel Patterns and Trends

Regional Cooperation

Natural Resource Protection

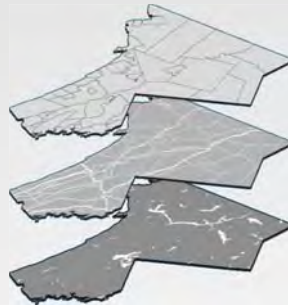
TZ Bridge/Transportation

Sustainable Development

Visual Quality and Design

Job Creation/Maintenance of Tax Base

Brownfields and Redevelopment



Affordable Housing



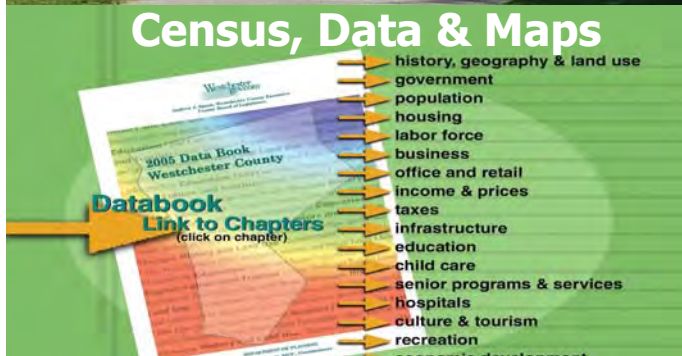
Water Quality



Open Space & Trails



Regional Planning



Census, Data & Maps



Special Projects

Databook
Link to Chapters
(click on chapter)

- history, geography & land use
- government
- population
- housing
- labor force
- business
- office and retail
- income & prices
- taxes
- infrastructure
- education
- child care
- senior programs & services
- hospitals
- culture & tourism
- recreation
- economic development

Program Sections:

- Land Use and Environment
- Design and Development
- Housing

Citizen Boards:

- County Planning Board
- Soil & Water Conservation District Board
- Housing Opportunity Commission
- Stormwater Advisory Board

Long Range Planning





43 Local Comprehensive Plans...

Pulling together local plans...



to create a 2025 Vision Plan



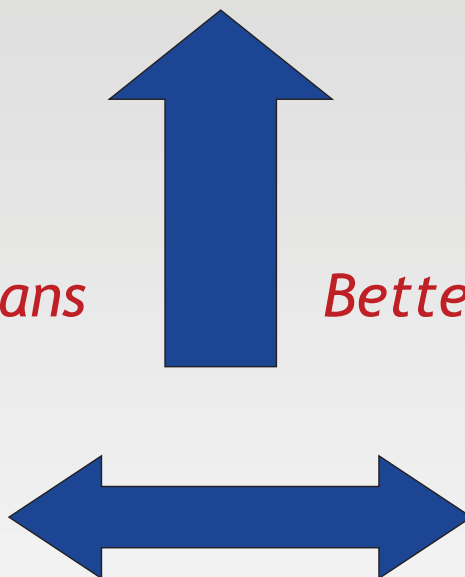
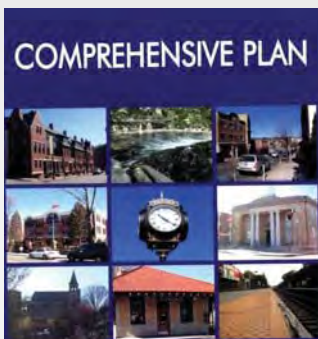
Economic development through efficient planning and growth



Better local plans



Better regional plan

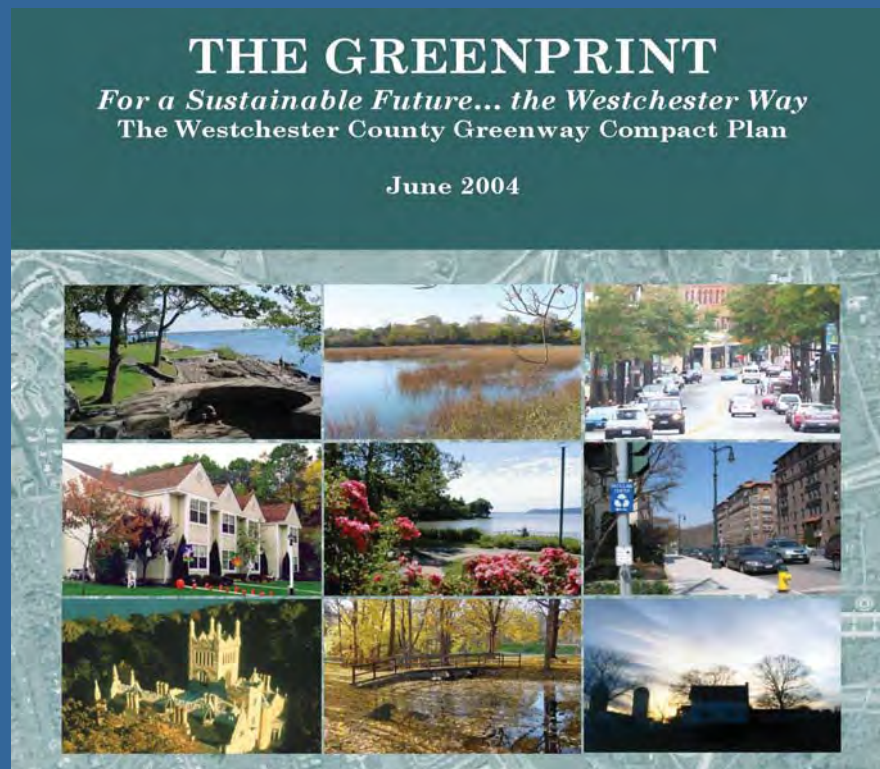


Croton Plan

Covering 40% of Westchester's land area with 10 municipalities working together to protect water quality and enhance community character



Regional initiatives and funding opportunities



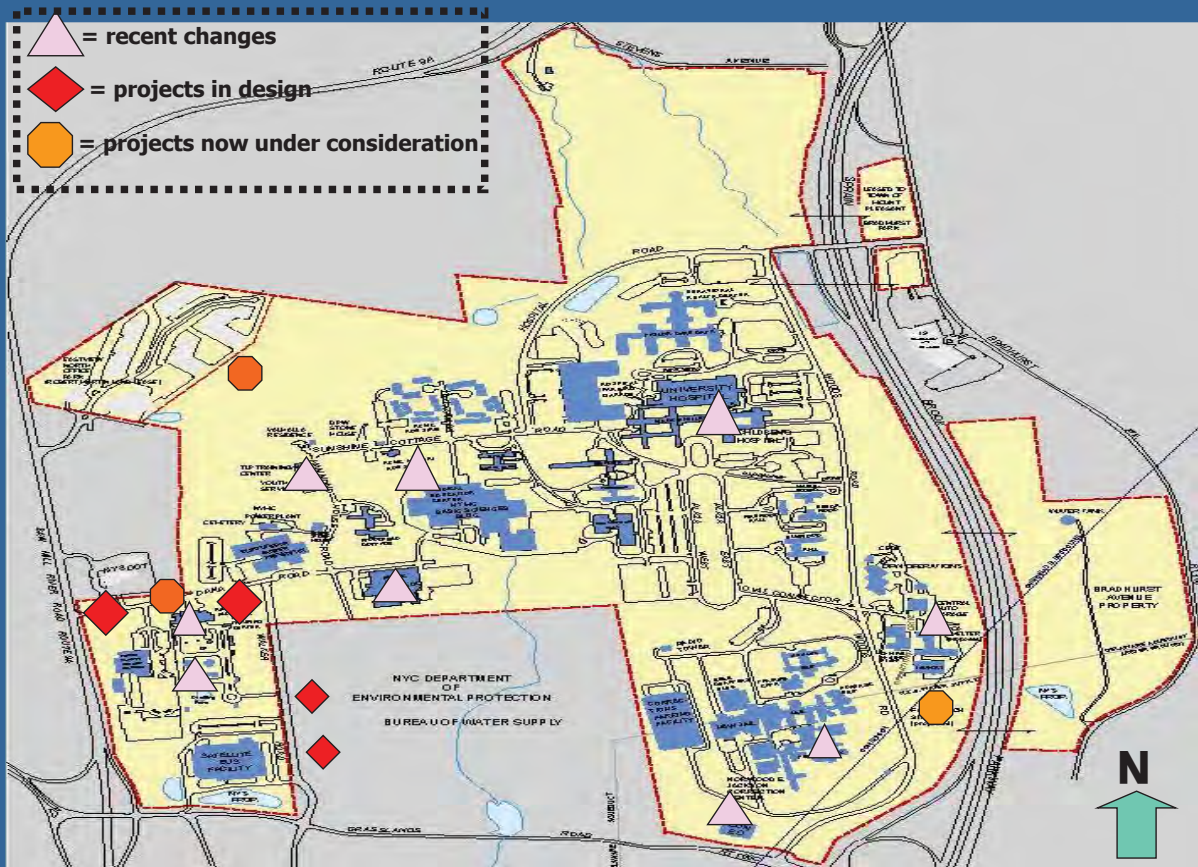
Development and Monitoring of Fair and Affordable Housing



County Capital Facilities Planning



Valhalla Campus master plan update

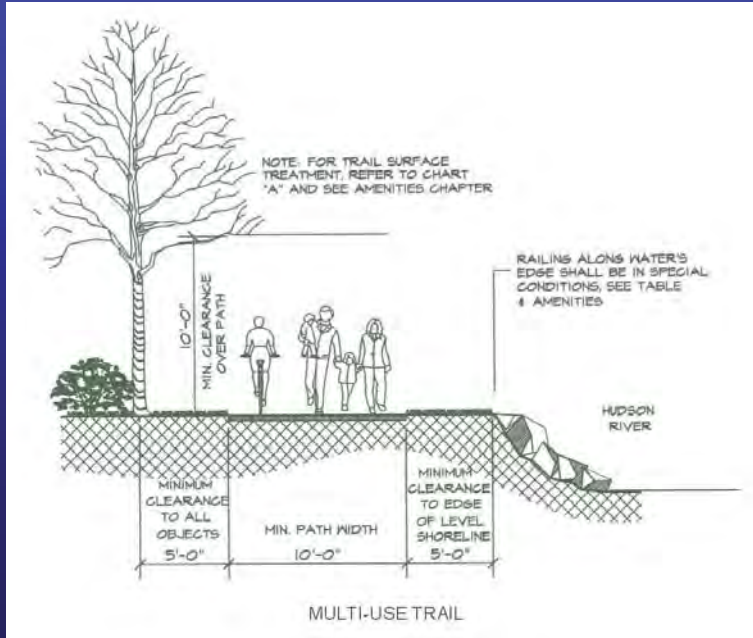


Trails and Open Space



The Vision of Westchester RiverWalk

A 46-mile Greenway Trail along the Hudson River from Peekskill to Yonkers



Census Data and Research

Databook
Westchester County, New York

- history, geography & land use
- government
- population
- housing
- labor force
- business
- office and retail
- income & prices
- taxes
- infrastructure
- education
- child care
- senior programs & services
- hospitals
- culture & tourism
- recreation
- economic development
- publications, maps & aerials

State Data Center Affiliate

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Press Releases About Us Contacts FAQ's Search Site Map

New York State - Home to Business ▶ "New Attitudes, New Opportunities, New York"

New York State Data Center

New York State Data Center

Commonly Requested Data about New York State

NEW YORK STATE - HOME TO BUSINESS ▶

- Locate a Site or Building ▶
- High Tech Research & Development ▶
- Empire Zones ▶
- Productivity, Energy & Environment ▶
- Brownfields Redevelopment ▶
- Small & Growing Businesses ▶
- Regions & Counties ▶
- Workforce & Demographics ▶
- New York Worldwide ▶
- Tax & Financial Incentives ▶
- Homeland Security ▶
- New York State Data Center ▶
- Bond Program ▶

▶ [Data Center Home](#)

▶ [Population Data](#)

▶ [Economic Data](#)

▶ [Geography and Mapping](#)

▶ [Information Resources](#)

▶ [Data Center Affiliates](#)

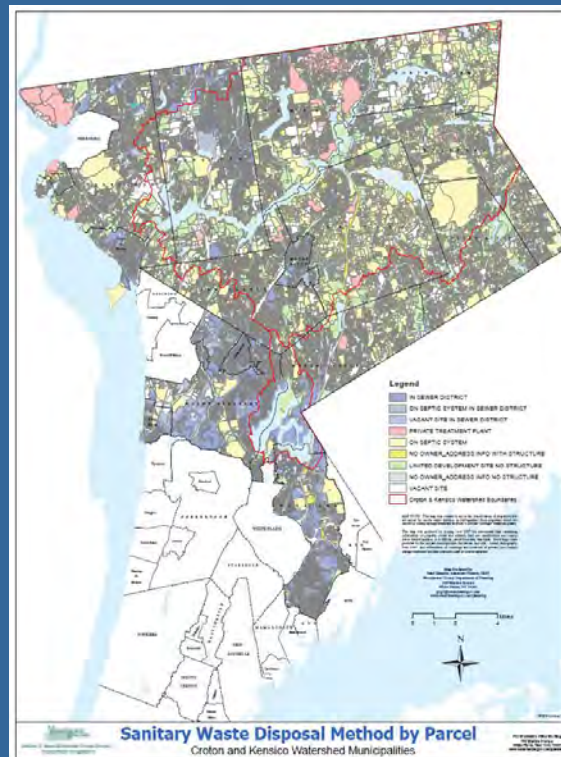
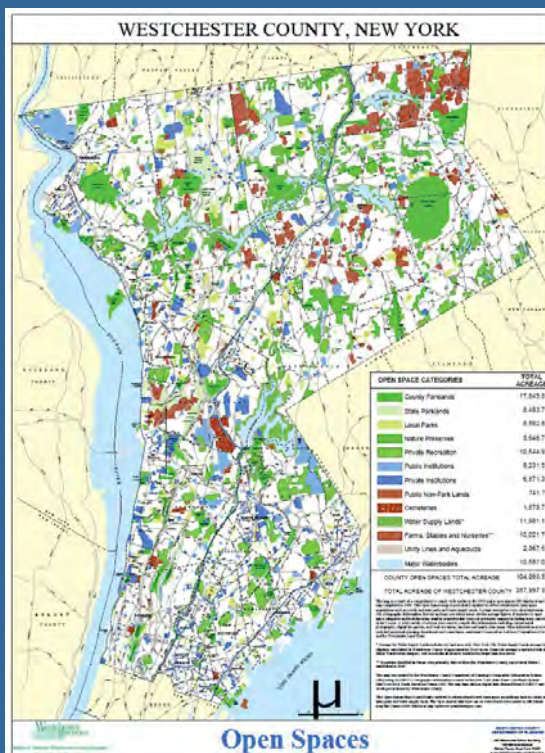
Empire State Development

[CENSUS 2000 INFORMATION](#)

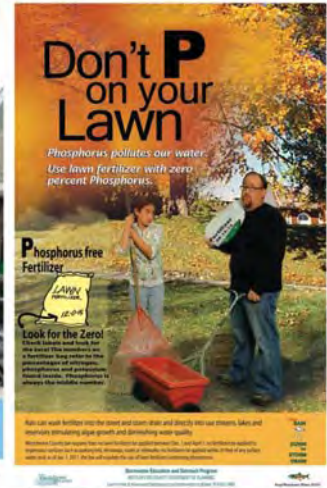
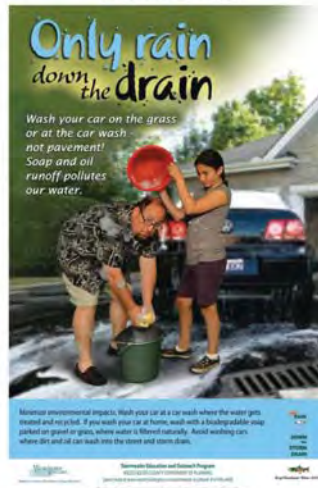
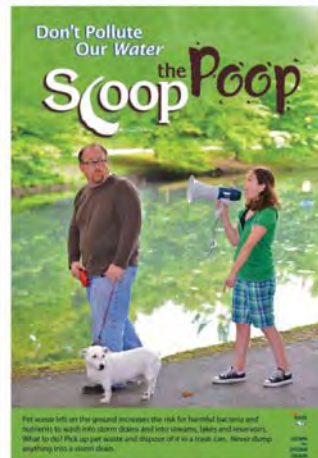
Summary Statistics for New York State Metro Areas
([View as .pdf](#)) ([Download as .xls file](#))

Subject	Data	Subject	Data
Resident Population Count (4/1/2000)	18,976,457	Per Capita Personal Income (2003 preliminary)	\$36,043
Population Estimate (7/1/2004)	19,227,088	Gross State Product (2004)	\$899.7 billion
Labor and Employment		Consumer Price Index	
Unemployment Rate (6/2005)	4.8%	CPI (US) (7/2005)	195.4
Residents Employed (6/2005)	9,442,300	CPI (US) Year-to-year change (7/2005)	+3.2%
Residents Unemployed (6/2005)	446,700	CPI (NY Metro) (7/2005)	212.5
Non-Agricultural Jobs (7/2005)	8,528,500	CPI (NY Metro) Year-to-year change (7/2005)	+3.4%

GIS Mapping and Research



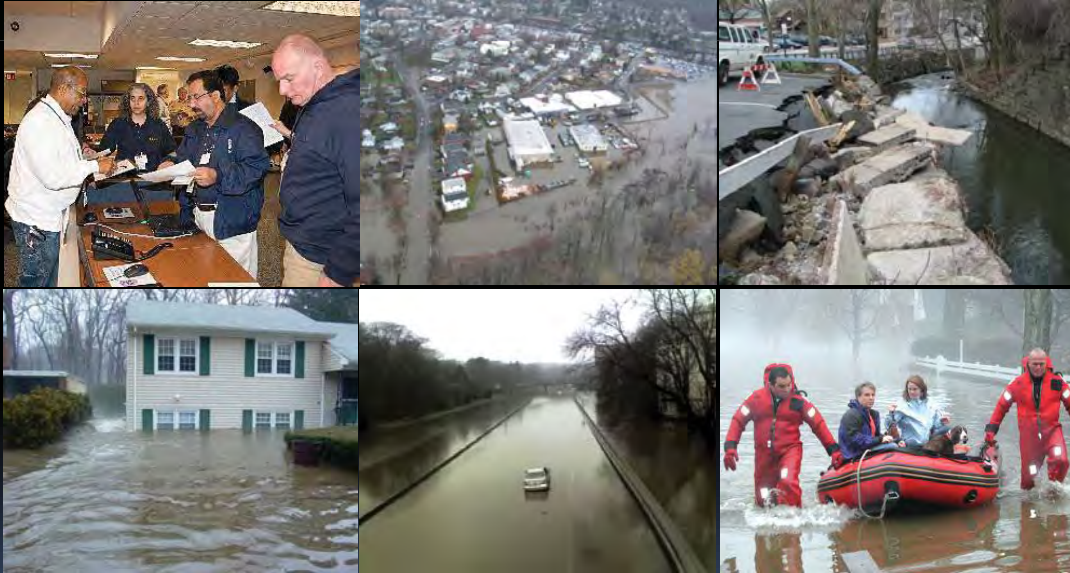
Stormwater MS4 Permit Compliance



State Environmental Quality Review “SEQR”

- Conducts State mandated environmental review for all County actions
- Includes actions by BOL, A&C, Board of Health and Departments:
 - Capital projects, agreements, real estate transactions, laws, regulations, etc.

Addressing local and regional impacts **FLOODING IN WESTCHESTER**



Westchester
gov.com

Robert P. Astorino, Westchester County Executive
County Board of Legislators

Westchester County Department of Planning

Aquatic Habitat Restoration



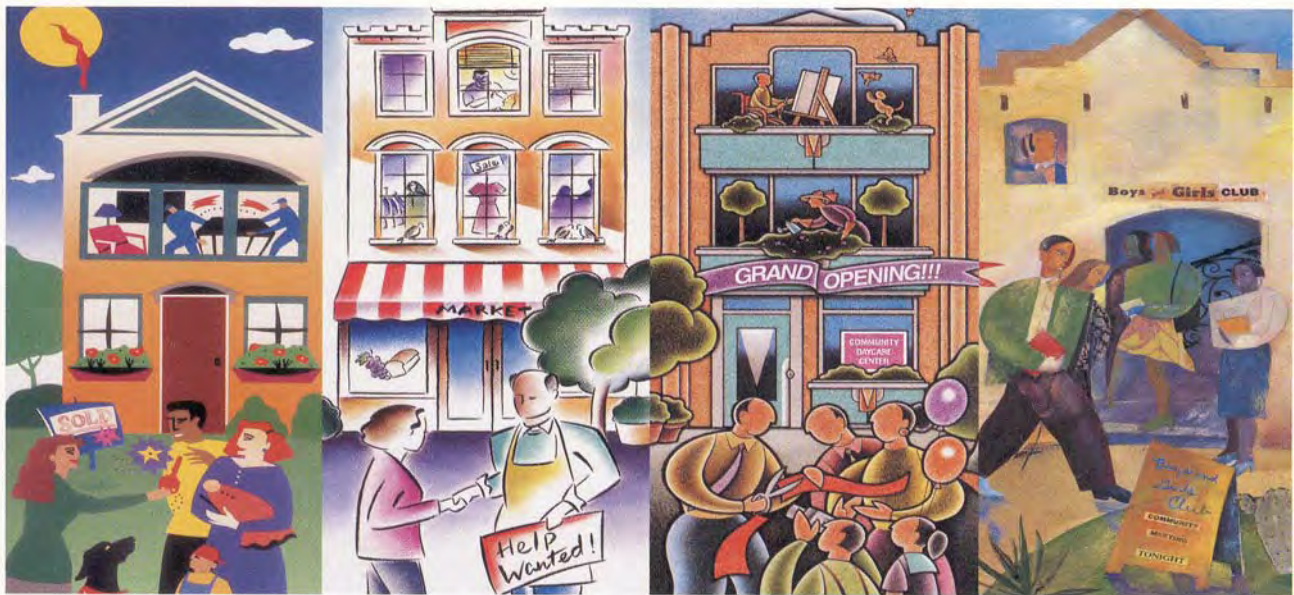
Before



After

Salt Marsh Restoration
Echo Bay, New Rochelle

Community Development Block Grant Program



C • D • B • G

signs of progress • signs of success

Programs in Partnership with the Westchester Municipal Planning Federation

Certificate of Completion

WESTCHESTER MUNICIPAL PLANNING • WMPP • FEDERATION

This is to certify that
David Abrahams
the Westchester Municipal Planning
Land Use Training Institute
held on 4/10/04, 22, 24 and 25

4/3/04

Kay

MUNICIPAL PLANNING PRIMER SERIES

The Planning Board

Westchester County Board of Legislators

March 2008

wmpf

MUNICIPAL PLANNING PRIMER SERIES

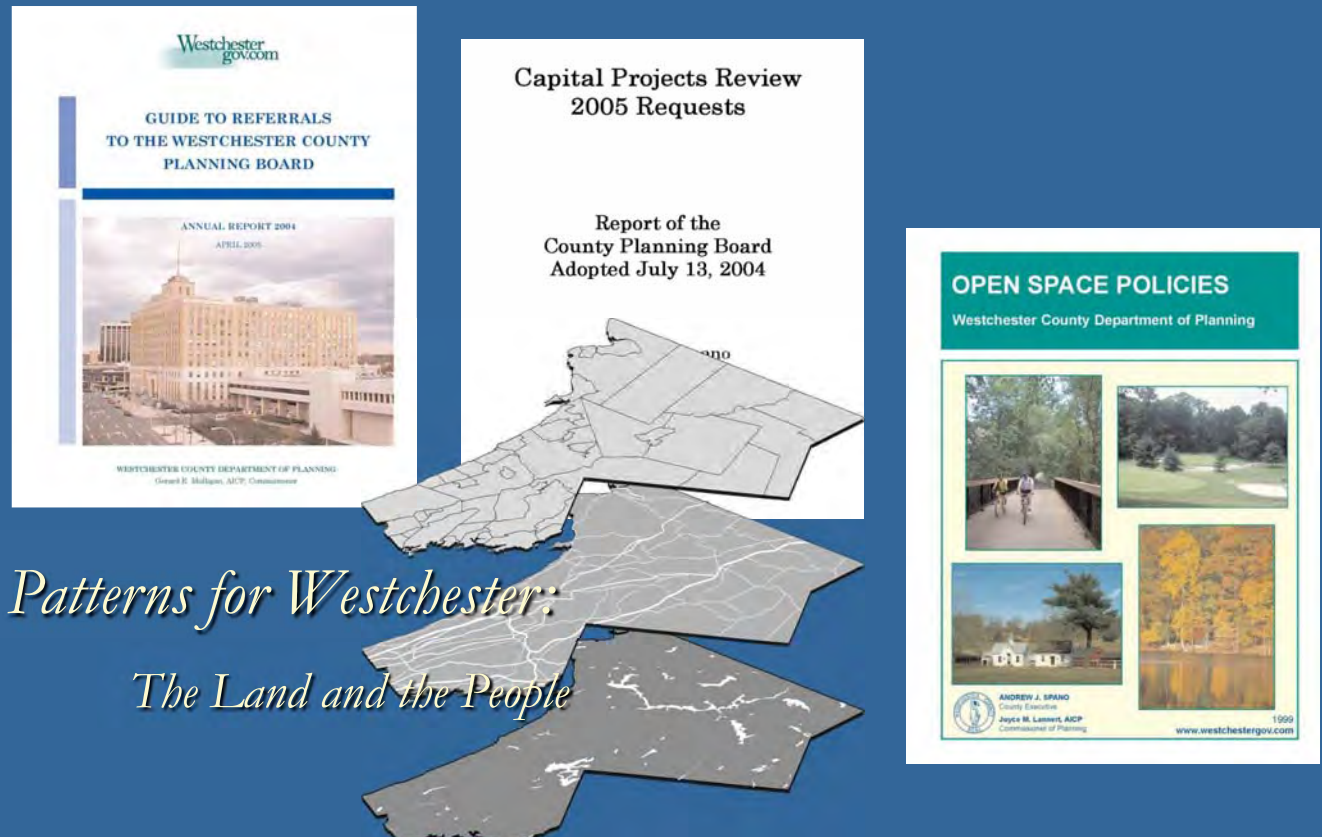
The Zoning Board of Appeals

Westchester County Board of Legislators

March 2008

wmpf

Role of County Planning Board



Westchester County Planning Board

The County Charter directs the County Planning Board to:

- *Formulate and recommend major physical planning and development policies;*
- *Undertake capital program planning and make recommendations on the capital budget; and*
- *Review and comment on municipal planning and zoning actions.*

Land Development Referrals to the Westchester County Planning Board

BMR LANDMARK AT EASTVIEW CAMPUS REDEVELOPMENT

TOWN OF MOUNT PLEASANT
REFERRAL FILE NO: MTP 11-004
SITE PLAN AND ZONING TEXT AMENDMENTS
DRAFT ENVIRONMENTAL IMPACT STATEMENT



Westchester County Planning Board – May 3, 2011

2012 Operating Budget Summary:

\$3,404,389 Tax Levy Cost

2012 Operating Budget Summary:

Total Expenditures \$4,188,756

59% Department Expenses

54% Annual Regular Salaries

0.5% Materials and Supplies

5.5% Expenses

41% Other Expenses

20% Inter-Departmental Charges

21% Technical Services (pass-through)

2012 Planning Department Staff:

Land Use 9

Environment 6

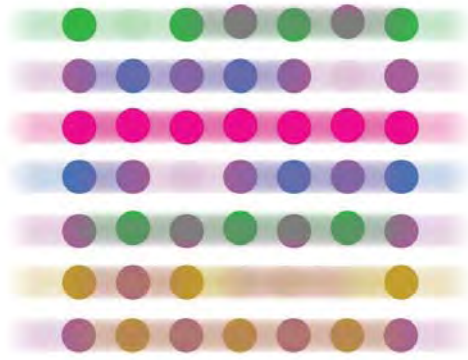
Housing 7

Design 4

Administration 9

(commissioner, 1 deputy, 2 contracts, accountant, 4 assistants)

Total 35



westchester 2025 /plan together

a partnership for Westchester's future

2025 Plan



Westchester 2025: Products

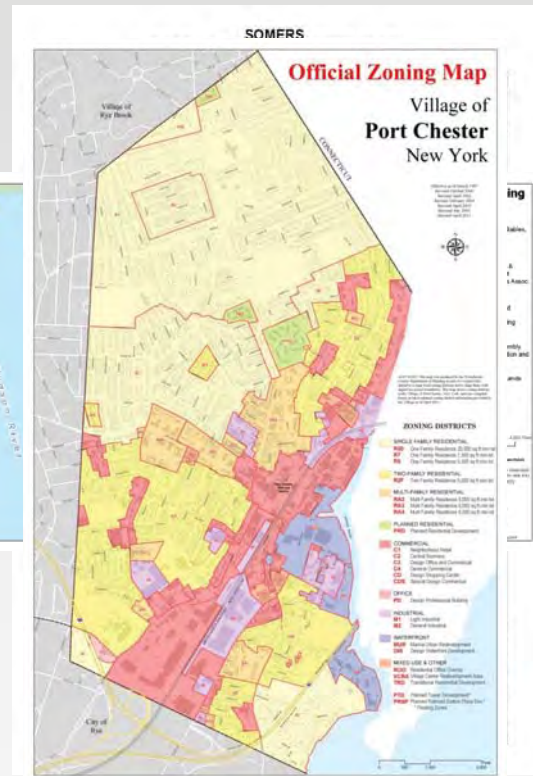
- ✓ Web-based planning portal
- ✓ Zoning buildout analyses
- ✓ Adopted policies
- ✓ Municipal demographic profiles
- ✓ Parcel-based land use report
- ✓ 3D visioning exercises
- ✓ I-287/TZ work
- ✓ Westchester's centers report
- ✓ Character area and design principals



Potential uses - shared services

Provide data for:
Comprehensive plans
Environmental Impact Statements
Special studies

Base maps
Parcel-based land use maps
Land use/zoning of land
in adjacent towns
Natural feature data layers
3-D concepts of developments
Alternative development scenarios
Census & population projections
Sewage and water estimates



Special projects to assist municipalities



Planning Base Studies Pilot Project

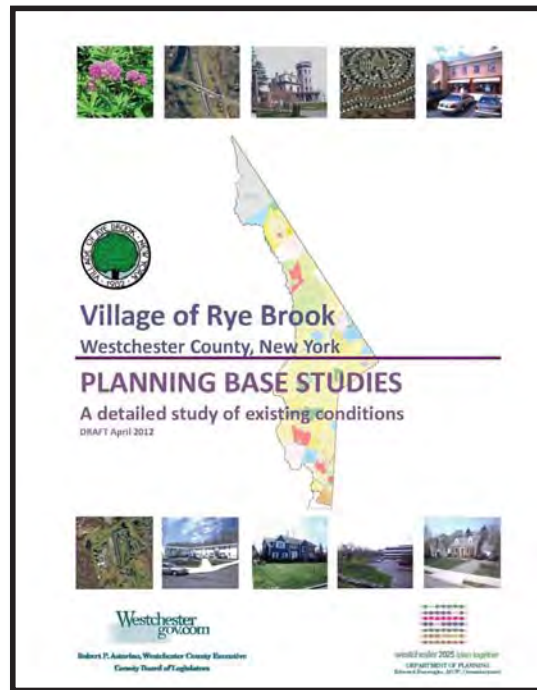


Table of Contents

1. External Influences: Regional Context
2. The Use of Land
3. Community Character
4. Population Characteristics
5. Transportation
6. Natural Resources
7. Recreation, Open Space and Cultural Resources
8. Public Facilities
9. Infrastructure and Utilities
10. Commercial Development– Major Employers
11. Residential Development
12. Current Zoning
13. 'Build Out' Under Current Zoning



Soils Map

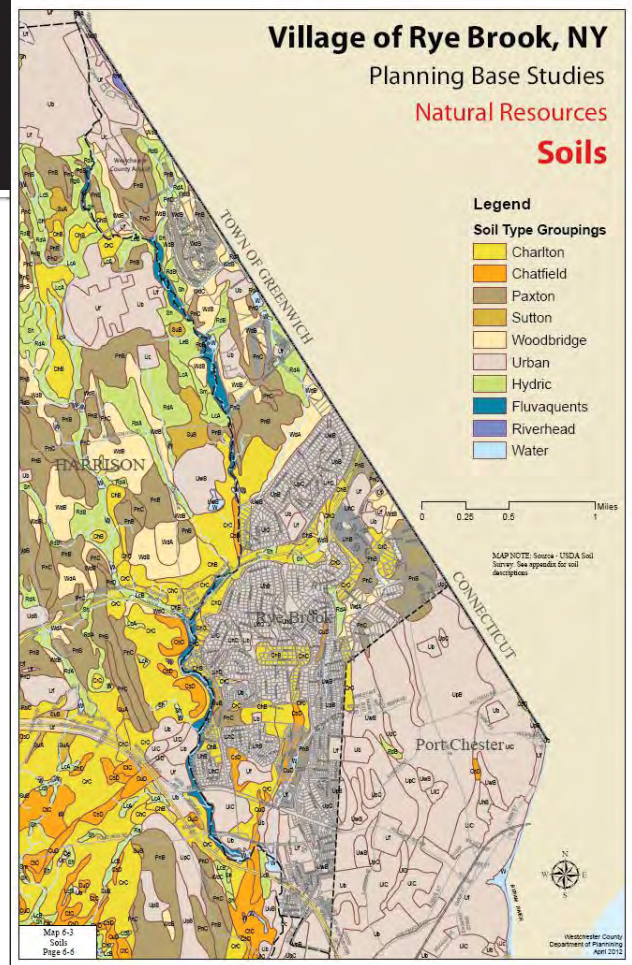
Chapter 6 Natural Resources Planning Base Studies Village of Rye Brook, New York

Figure 6-2. Soils in the Village of Rye Brook:

Soil Category	Soil Map Symbol	Soil Name and Description	Hydrologic Group	Acres
Chertons	CSB	Chertons loam, 2-4% slopes	B	220
	CSB	Chertons loam, 2-4% slopes	B	75
	CSB	Chertons loam, 2-4% slopes	B	21
	CSB	Chertons loam, 2-4% slopes	B	18
	CSB	Chertons loam, 2-4% slopes	B	169
Chertons	CSB	Chertons loam, 2-4% slopes	B	17
	CSB	Chertons loam, 2-4% slopes	B	26
	CSB	Chertons loam, 2-4% slopes	B	302
Chertons	CSB	Chertons loam, 2-4% slopes	B	240
	CSB	Chertons loam, 2-4% slopes	B	99
	CSB	Chertons loam, 2-4% slopes	B	12
	CSB	Chertons loam, 2-4% slopes	B	<1
	CSB	Chertons loam, 2-4% slopes	B	2
Woodbridge	W4A	Woodbridge loam, 0-4% slopes	C	65
	W4B	Woodbridge loam, 0-4% slopes	C	160
	W4C	Woodbridge loam, 0-4% slopes	C	54
	W4D	Woodbridge loam, 0-4% slopes	C	1806
Urban	U1	Urban land, unimproved	NA	137
	U2	Urban land, wet substrate	NA	35
	U3	Urban land	NA	126
	U4	Urban land-Chertons complex, 2-4% slopes	NA, B	189
	U5	Urban land-Chertons complex, 2-4% slopes	NA, B	65
	U6	Urban land-Chertons complex, 2-4% slopes	NA, B	8
	U7	Urban land-Chertons-Chertons complex, rolling, very rocky	NA, B, C	187
	U8	Urban land-Chertons complex, 2-4% slopes	NA, C	217
	U9	Urban land-Chertons complex, 2-4% slopes	NA, C	36
	U10	Urban land-Chertons complex, 2-4% slopes	NA, C	109
	U11	Urban land-Chertons complex, 2-4% slopes	NA, C	141
	U12	Urban land-Chertons complex, 2-4% slopes	NA, C	1
	U13	Urban land-Chertons complex, 2-4% slopes	NA, C	<1
	U14	Urban land-Chertons complex, 2-4% slopes	NA, C	3
	U15	Urban land-Chertons complex, 2-4% slopes	NA, C	79
Hydric	H1	Hydric loam, 0-4% slopes, very wet	C	79
	H2	Hydric loam, 0-4% slopes, very wet	C	<1
	H3	Hydric loam, 0-4% slopes, very wet	C	3
	H4	Hydric loam, 0-4% slopes, very wet	C	79
	H5	Hydric loam, 0-4% slopes, very wet	C	<1
Fluviatiles	F1	Fluviatiles loam, 0-4% slopes, very wet	D	22
	F2	Fluviatiles loam, 0-4% slopes, very wet	D	22
	F3	Fluviatiles loam, 0-4% slopes, very wet	D	22
Water	W	Water	NA	18
	W	Water	NA	18
TOTAL				2,238

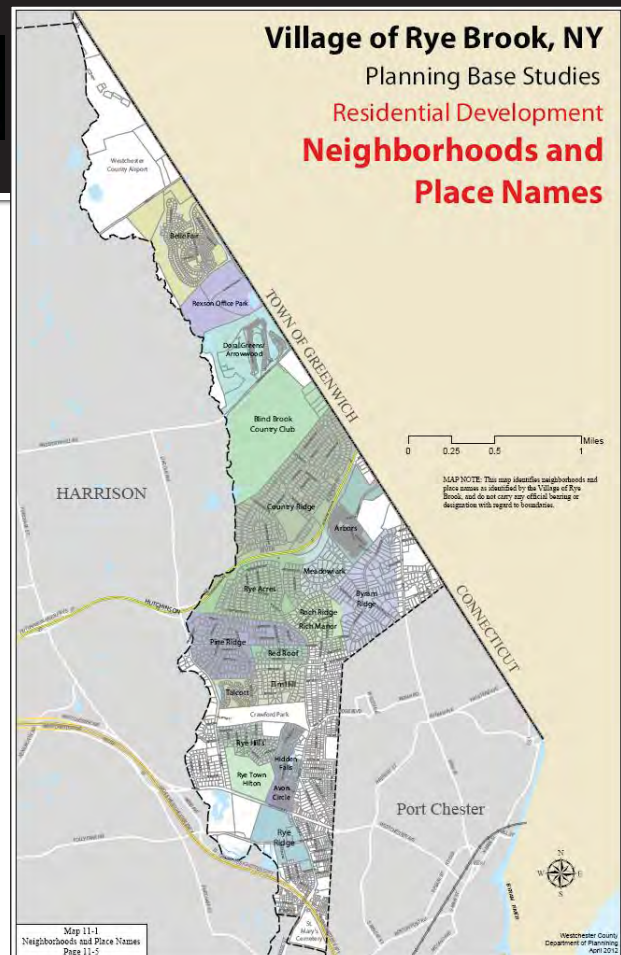
Source: U.S. Department of Agriculture National Resources Inventory (NRI) Soil Survey of Rye Brook and Woodbridge Counties, New York, 1984.

6-7 DRAFT April 2012
Prepared by the Westchester County Department of Planning



Neighborhood Map

Figure 11-5. Single Family Housing in Rye Brook





New uses for old resources



Opportunities to increase regional mobility and quality of life



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The Need to Plan

Plan Together

Website

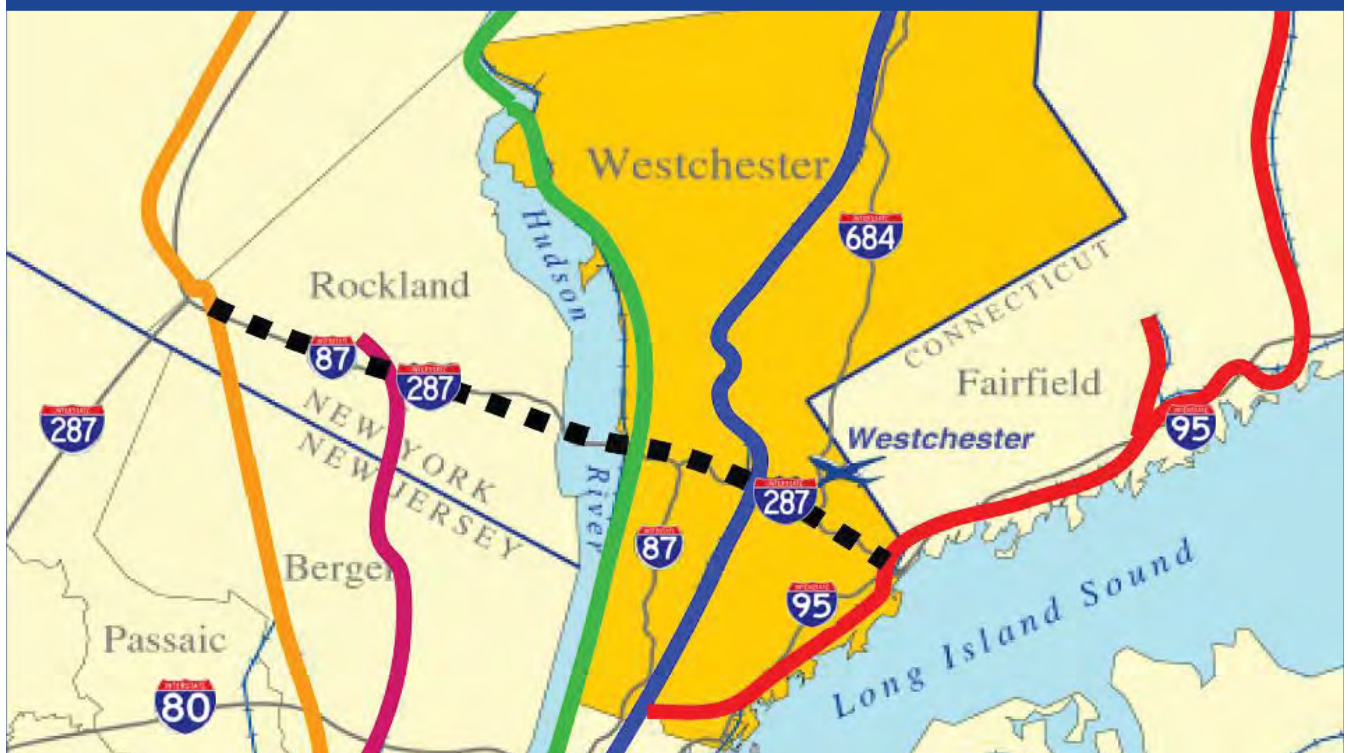
What's Next?

Corridors of the future: potential transit in I-287 corridor

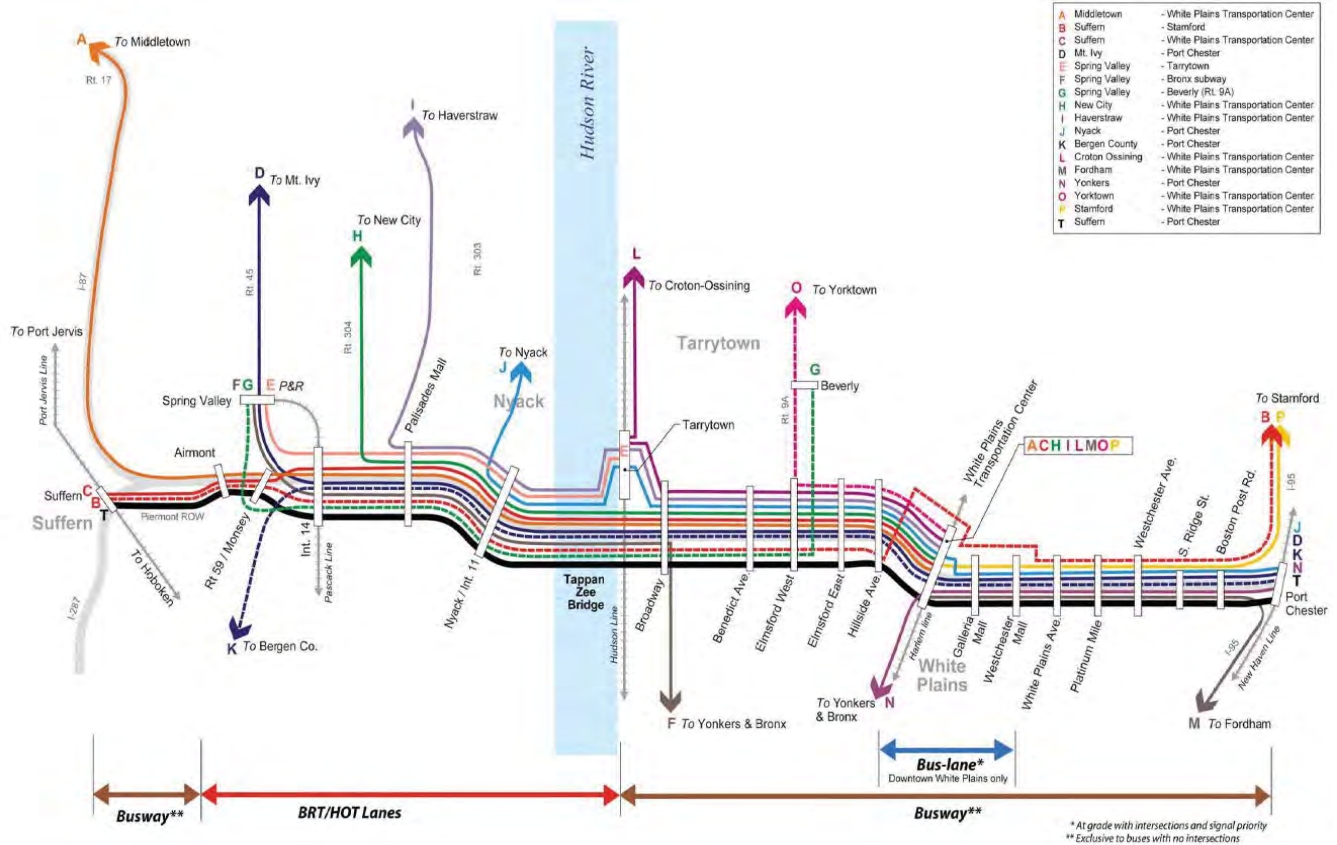


Tarrytown, Greenburgh, White Plains, Purchase, Port Chester

Invest now in REAL Bus Rapid Transit

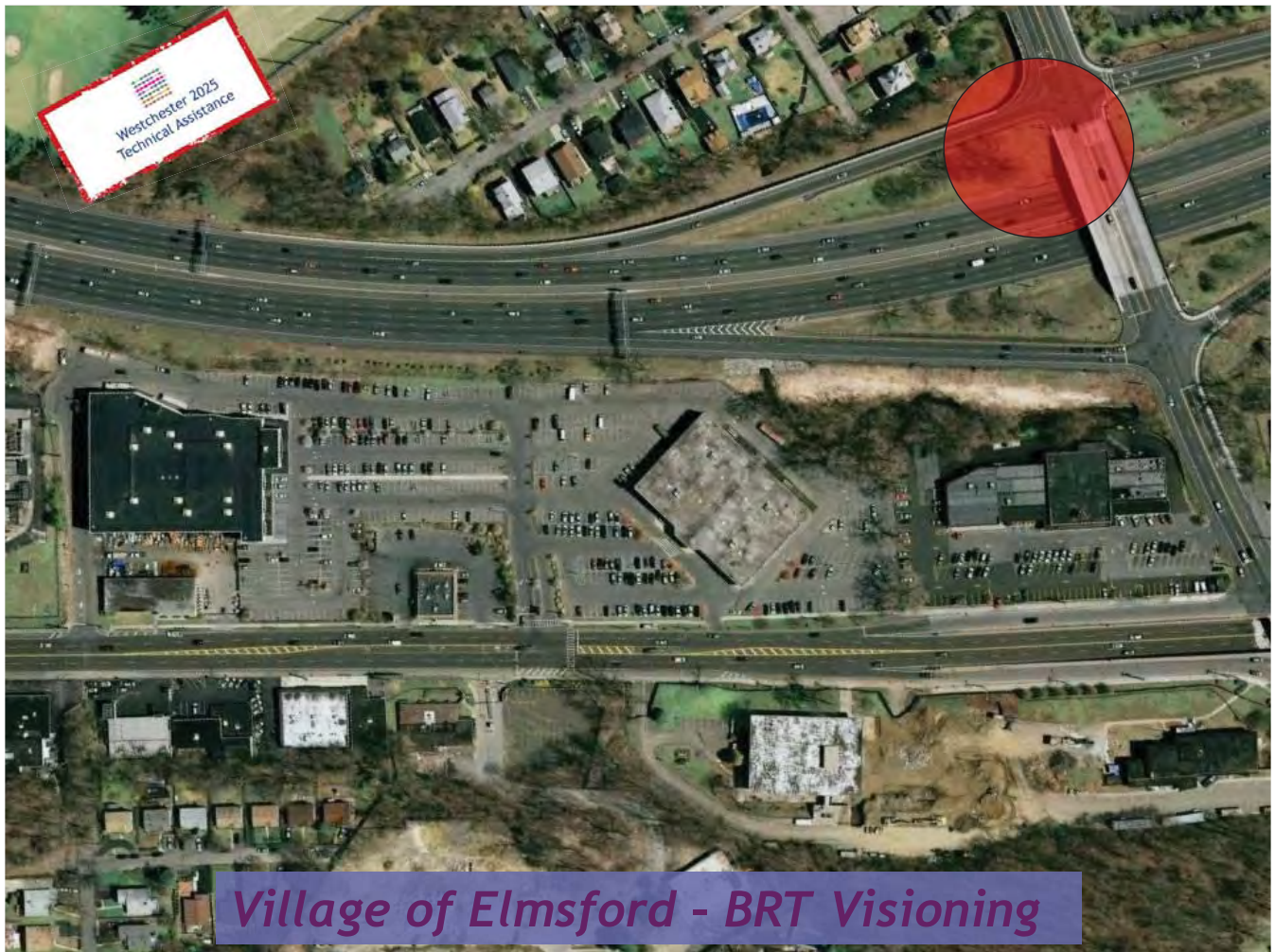


I-287 BRT route concept

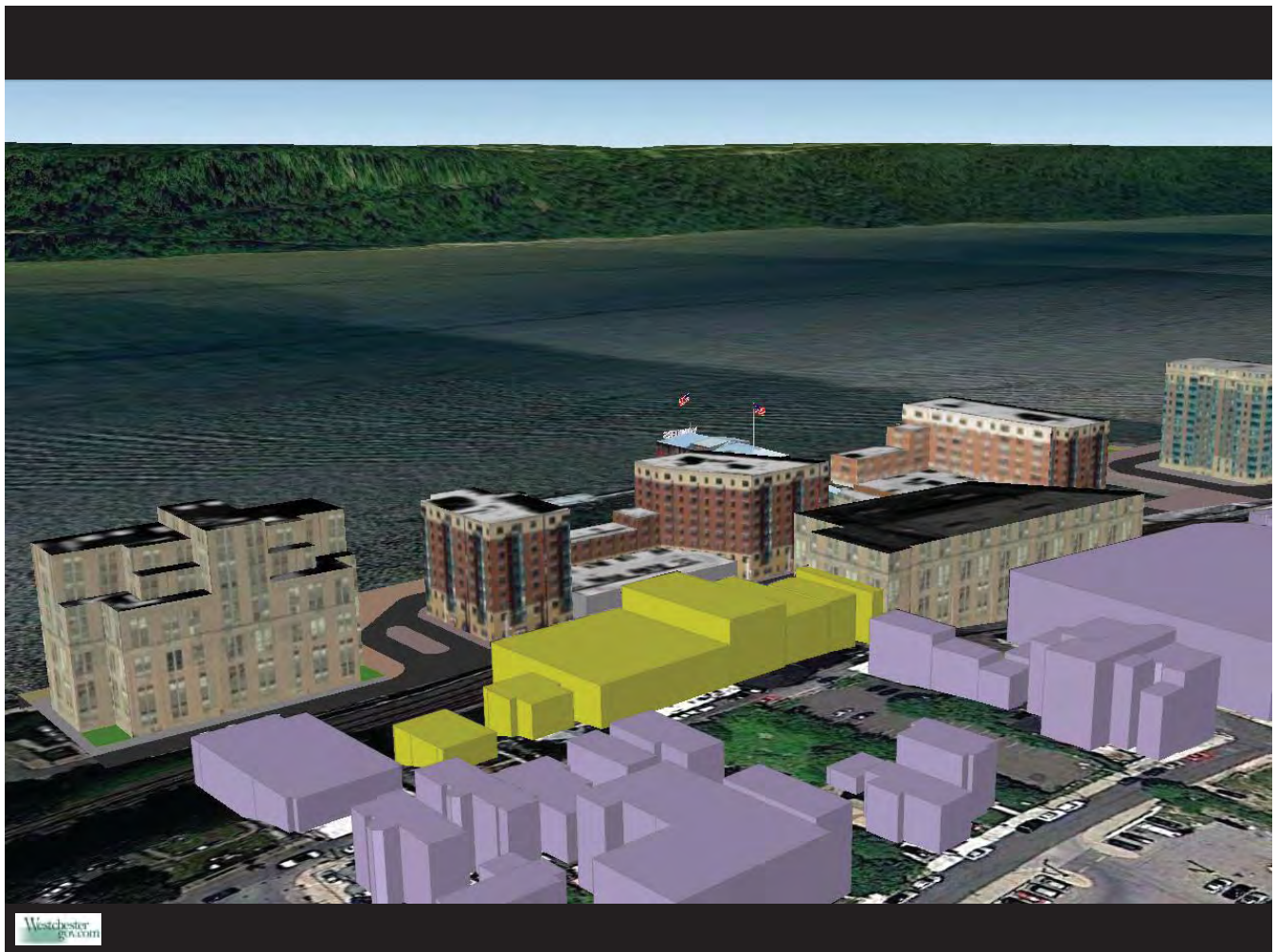
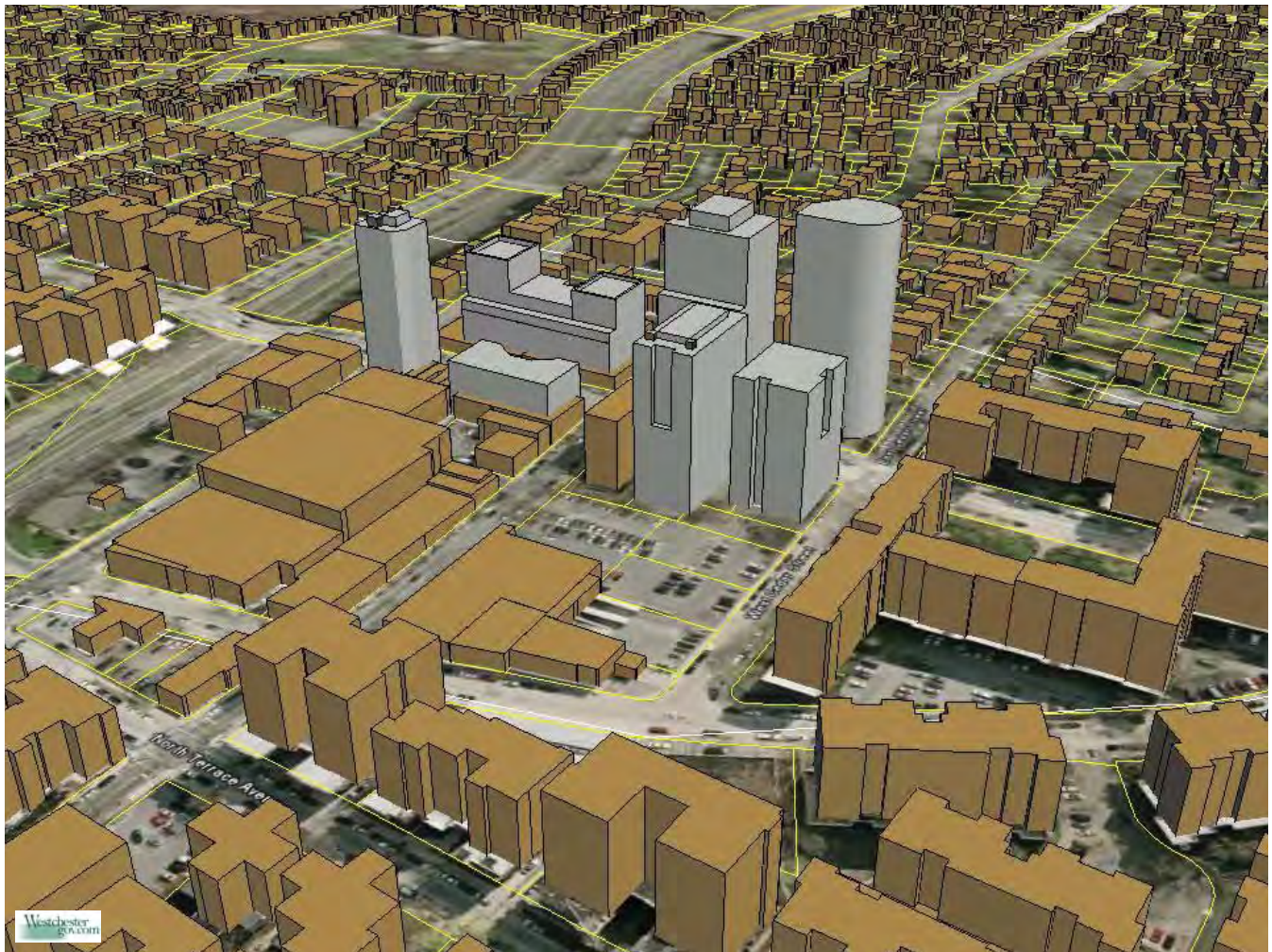


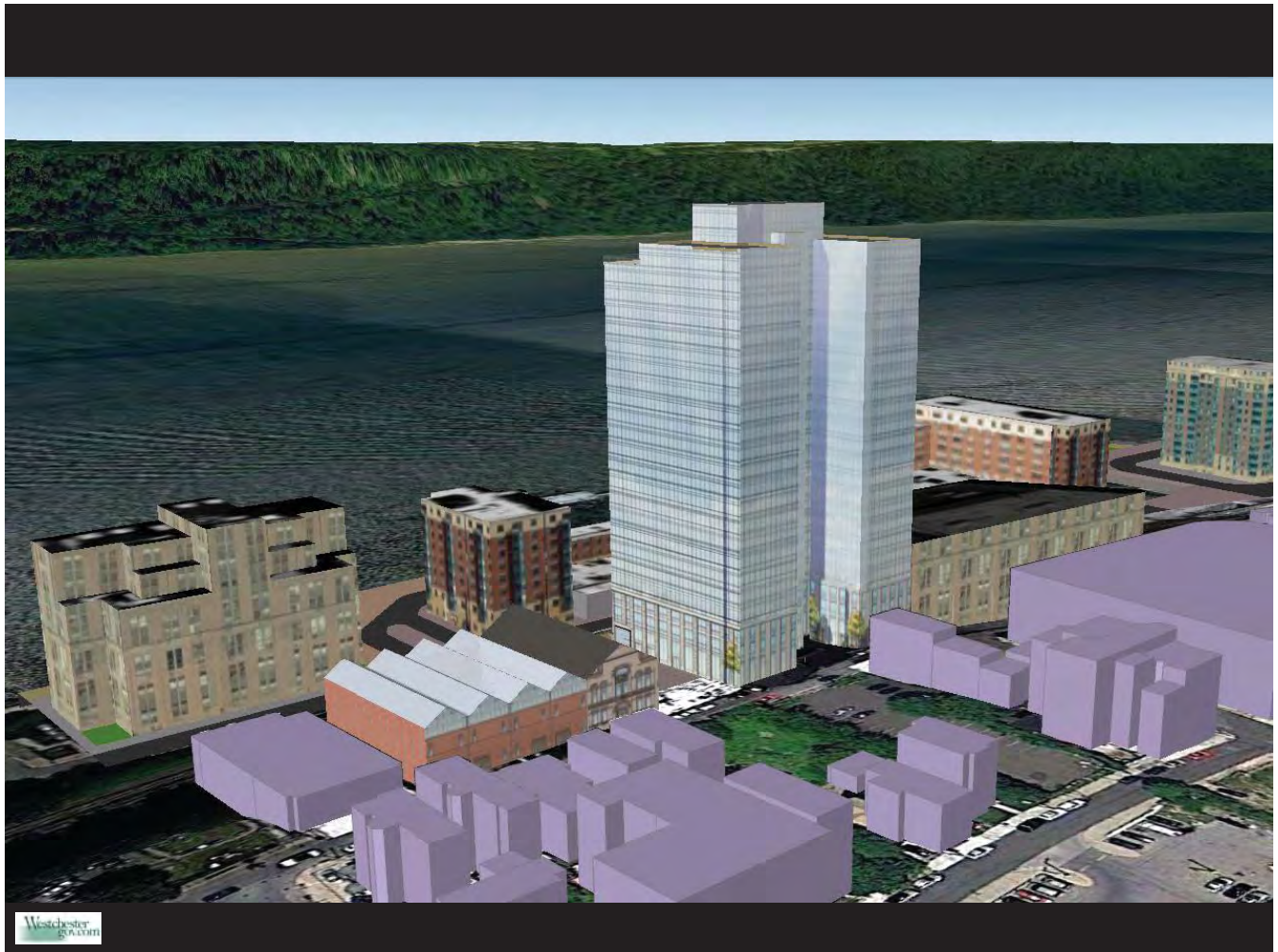
Opportunities for Transit Oriented Development across Westchester

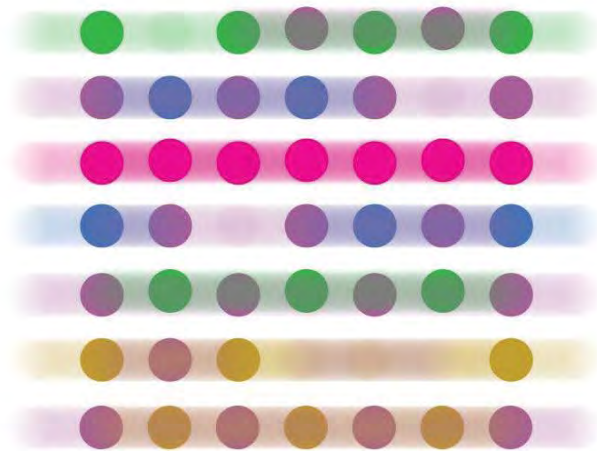












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Westchester *PLANNING*

Westchester County Department of Planning

Department of Environmental Facilities

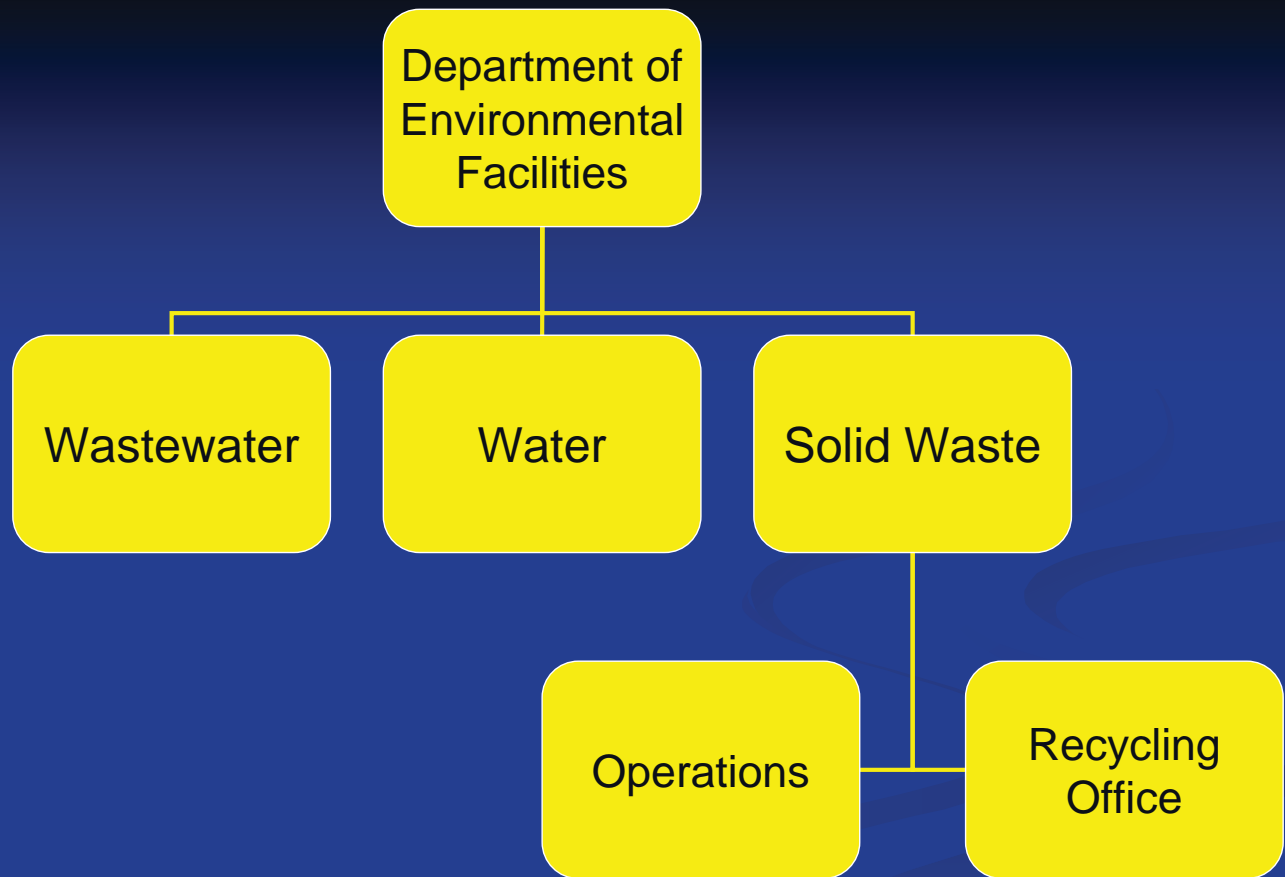
Department of Environmental Facilities

Thomas J. Lauro, P.E., Commissioner

“Protect

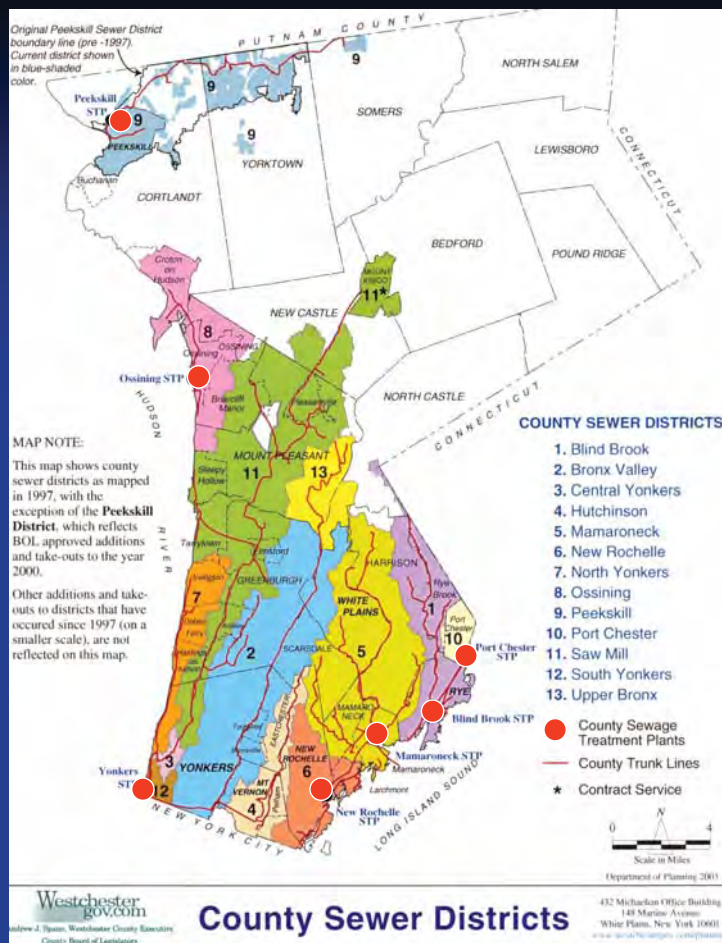
Preserve

Conserve”



Wastewater Division

- 7 Wastewater Treatment Plants (WWTP)
- 43 Pump Stations
- 2 Overflow Retention Facilities
- 200 Miles of Sewer
 - 151 Miles Gravity Trunk
 - 49 Miles Force Main



- 13 Sewer Districts
- 7 WWTP's
- 43 Pump Stations (not shown)
- 200 Miles of Sewers

2011 Performance

	AVERAGE FLOW (MGD)	INFLUENT TSS (mg/L)	EFFLUENT TSS (mg/L)	% REMOVAL	INFLUENT CBOD (mg/L)	EFFLUENT CBOD (mg/L)	% REMOVAL
PEEKSKILL	7.2	196	11	95	162	7	96
OSSINING	5.5	142	6	96	95	5	95
YONKERS JOINT	106	122	10	92	91	8	91
PORT CHESTER	5.6	377	11	97	200	12	94
BLIND BROOK	4.3	109	8	93	91	5	95
MAMARONECK	17.7	114	5	95	67	4	94
NEW ROCHELLE	17.0	89	11	88	65	7	89

Wastewater Operating Budget

- Operating Costs are consolidated for the 13 Special Districts (Sewer Districts).
- 183 MGD Total Design Capacity
- 59,551,200,000 gallons treated in 2011
- \$93,593,167 Expended in 2011
- \$0.0016 / gallon - *“Less than a penny per flush”*

LIS Nitrogen Consent Order

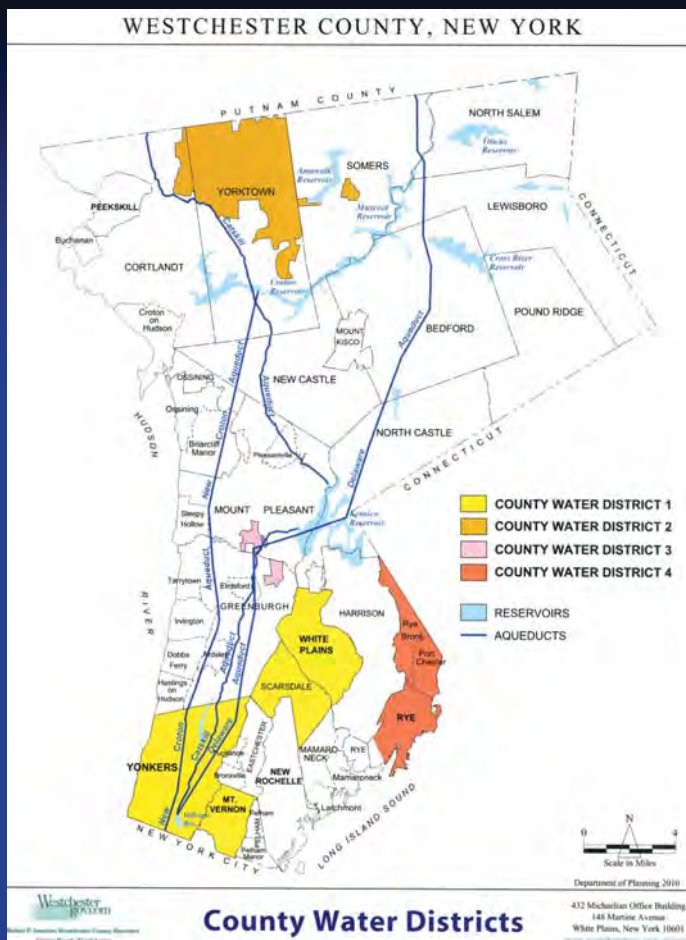
- Renegotiated in 2008, avoiding \$338,000,000 in Capital Expenditures.
- Originally all 4 LIS WWTP's were to be upgraded.
- Renegotiation resulted in just Mamaroneck and New Rochelle Upgrades.
- Final Limits pushed back from 2014 to 2017.
- Second Engineering Plan Submitted 12/31/11

Capital Projects

Program Area	Active Number	Projected Cost
System-Wide	5	\$ 8,400,000
LIS BNR Projects	2	\$ 186,780,000
13 Sewer Districts	64	\$ 363,923,000
Total	71	\$ 559,103,000

Water Division

- DEF distributes NYC DEP supplied water.
- 2 County Water Districts - CWD#1 & CWD#3
- 2 chemical feed facilities (CWD#1)
- 2 pump stations, 1 with chemical feed and UV Disinfection (CWD#3)



- 4 Water Districts
– 2 Operated by DEF
- 2 Chemical Feed Facilities
- 2 Pumping Stations
- 14 Miles of Water Main in CWD#1 & 12.7 Miles in CWD#3

2011 Performance

Kensico Dam

Month	Flow
	MGD
January	10.4
February	11.0
March	10.1
April	11.8
May	12.6
June	14.6
July	15.8
August	14.7
September	12.6
October	12.3
November	11.4
December	10.9
Total	148.2
Average	12.3

Shaft 22

Flow
MGD
10.6
11.1
10.1
10.4
11.0
10.6
11.8
11.3
11.3
10.2
10.2
11.0
129.5
10.8

Gate of Heaven

Flow
MGD
0.60
0.63
0.48
0.53
0.62
0.62
0.63
0.78
0.71
0.58
0.51
0.46
7.18
1.10

Water Division



- CWD#1 – Kensico Dam Facility and Shaft 22 at Crisfield Street

- Yonkers, Mount Vernon, White Plains & Scarsdale



- CWD#3 – Gates of Heaven Pump Station & Greenburgh Pump Station

- Grasslands Campus

Capital Projects – CWD#1

Required to provide UV treated water to members by Fall 2012.

CWD#1 will construct a distribution chamber and pumping station close to the NYCDEP UV facility in Eastview.

Funding:

2012 CBA for the distribution chamber
Design, Construction and CM.

2012 CBA for the pumping station Design.

Capital Projects – CWD#1

Members have requested a feasibility study for a second source of water from a NYCDEP connection in the Bronx to account for a KB pipeline failure north of their connection.

Final Draft report in early 2012 identified selected alternative, which will be presented to the CWD#1 members.

Capital Projects – CWD#3

Customers required an alternate water source during the NYCDEP long term shutdown of the Catskill Aqueduct scheduled beginning in October 2010.

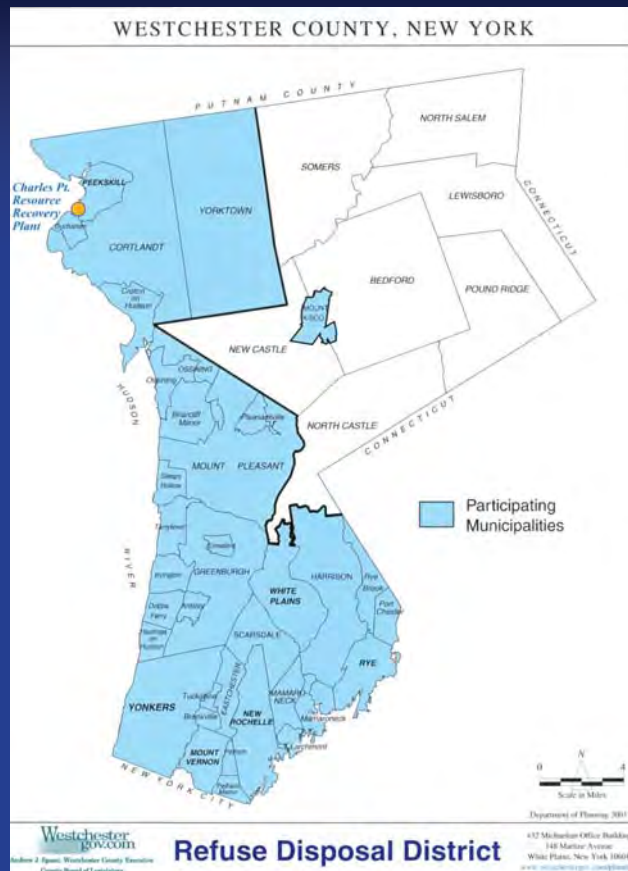
Construction in early 2010 of a new Gates of Heaven Pumping Station utilizing a new pipeline connection at Commerce Street & providing UV treatment.

Solid Waste Division

Operations

- Solid Waste Management
- Recyclables Management
- 4 Transfer Stations: White Plains, Mount Vernon, Yonkers, Northern Tier
- Household Material Recovery Facility (H-MRF)
- Organic Yard Waste Transfer Program
- Recycling Collection Service

Refuse Disposal District No. 1



Solid Waste Division



White Plains Transfer Station



Mt. Vernon Transfer Station

- Transfer Stations collect almost 400,000 tons for Resco

- White Plains
- Mount Vernon
- Yonkers



Yonkers Transfer Station

Operations – Solid Waste Management

Charles Point Resource Recovery Facility, Peekskill, NY

- The Solid Waste Division oversees the disposal of almost 400,000 tons of solid waste annually.
- In October 2009 the County, on behalf of Refuse Disposal District #1 ("RDD"), entered into a new 10-year contract with Wheelabrator to continue to dispose of solid waste at the Charles Point facility. The contract includes a 5-year renewal at the County's option and 2 additional 5-year renewals by mutual agreement.

Under the new agreement:

- The County pays a tipping fee of \$71.50/ton (Annual adjustment based on CPI)
- Pursuant to IMA's between RDD member municipalities and the County, RDD members pay \$25/ton, which is adjusted annually based upon the CPI. The difference is made up through the ad valorem tax.

Operations – Recycling Management

Materials Recovery Facility (“MRF”), Yonkers, NY

- The MRF processed more than 75,000 tons of recyclables in 2011. There is no tipping fee for recyclables.
- For every ton of recyclables collected at the MRF, the RDD avoids paying the tipping fee for solid waste at the Charles Point Facility and transportation costs. (over \$85/ton)
- ***In 2011 recycling saved the County over \$4 Million in disposal and transportation costs.***
- Recyclables collected at the MRF are marketed and sold by City Carting of Westchester, an outside vendor that operates the MRF pursuant to a contractual agreement. Revenues from the sale of recyclables are split with 80% going to the RDD and 20% to City Carting. ***In 2011 RDD revenue from the sale of recyclables was over \$7.4 Million.***

Operations - Organic Yard Waste Transfer Program

- The current IMA program is in effect through March 2013.
- RDD members are able to dispose of yard waste at a discounted rate of \$15/ton. The cost to the RDD is approximately \$43/ton.
- In 2011 the program diverted over 184,000 tons of yard waste from the solid waste stream.



Operations - Recycling Collection Services

- The Solid Waste Division's recycling crew collects recyclables from approximately 40 County facilities and delivers the materials to the MRF, in Yonkers, where they are processed and marketed.

Household Material Recovery Facility (H-MRF)

- Opened in April 2012 , located on the Valhalla Campus
- Accepts hard to get rid of household wastes including hazardous chemicals, rechargeable batteries, E-Waste, tires, cleaning products, and expired medications.
- Includes confidential document shredding service.
- Whenever possible materials are separated for recycling.
- Other materials are disposed of in a safe and environmentally sound manner.
- Open Tue/Thurs/Sat 10A-3P by Appointment Only.
- Non-RDD Members pay a small fee.

Solid Waste Division

■ Recycling Office

- Recycling Programs
- Recycling Enforcement
- Recycling Education



Recycling Office – Programs

■ E-Waste Recycling

- The County provides 26 E-Waste Collection Pods throughout the RDD for residential disposal of “anything with a plug”.
- In 2011 the County diverted over 1,500 tons of E-Waste from the solid waste stream through E-Waste events.
- Enactment of the *Electronics Manufacturer Responsibility Law of 2011* allowed reduction of E-Waste disposal costs from over \$100,000/year to near zero.

Recycling Office – Programs

■ Recycling Enforcement

- 3 DEF inspectors inspect loads of solid waste and recyclables disposed of at private and municipal transfer stations, and inspect businesses, schools and other institutions, looking for violations of the County's Source Separation Law.
- In 2011 the inspectors examined nearly 7,000 loads of solid waste and recyclables, and inspected over 500 locations.
- In 2011 DEF issued over 200 violations.
- In 2011, 160 school inspections found only 10 in noncompliance with the SSL.
- Since inception of the enforcement program in 2008 the County has experienced an annual increase in curbside recycling.

Recycling Office – Programs

■ Recycling Education

- MRF Tours: In 2011 the MRF Education Center attracted over 5,800 visitors, including thousands of students from schools throughout the County.
- DEF staff conduct educational seminars for municipal sanitation departments.
- DEF staff visit civic organizations to provide training to residents and businesses.
- Recycling Website: Reference materials including downloadable brochures and recycling self-audit forms.

Recycling Office – Programs

■ Other Recycling Programs

- Boat Shrink Wrap Recycling: recovered over 22 tons of boat wrap in 2011; the material is sold at \$125/ton.
- Treasure Hunt: offers residents opportunity to give away or pick up, for no fee, used but usable household or office items.
- Freon Removal: DEF certifies companies that properly extract Freon from cooling or dehumidifying devices.
- 2-1-1 HelpLine: answers recycling questions 24/7.

Capital Projects

- Sprout Brook cell closure completed in 2011.
- Project to replace the existing commingled process system with a modernized system, completed for ½ the estimated \$9,000,000 and is eligible for NYSDEC reimbursement grant funds.
- Construction of the H-MRF completed in 2012.
- Rehabilitation of the Croton and Railroad 1 Landfill Gas Extraction Systems (\$2,900,000).
- Installation of Leachate Collection System at the MRF in Yonkers mandated by NYSDEC.

Questions

Forms of County Government

1

Charter Change —

Thinking Ahead
About Approaching the
Task



*"Now, should we add something at the end about how wise we are
and therefore nothing in here should ever be changed?"*

Westchester Charter Commission – Forms of County Government



GERALD BENJAMIN
DIRECTOR
CRREO
APRIL 27, 2013



10/11/2013

Charter and Non-Charter Counties



- **There are 62 counties:**
 - Five of these are within NYC – NYC exercises the powers of both a city and a county
 - Twenty-two of these have adopted home rule charters. These tend to be suburban, and the most populous. (Westchester was among the first.)
 - Thirty-five operate under provisions of state law
 - All now enjoy “home rule”

Counties in New York – Roles in Tension



- **“Branch offices” of state government**
 - Created for the decentralized delivery of essential services in rural area, dating to 1683. Westchester was among the original 12 counties established in the state.
 - 1892 County Law – Frames county government
 - NY retains highly decentralized service delivery
- **Autonomous “Home rule” entities**
 - Often restructured to meet increased demands of suburbanization – Westchester’s first charter was adopted in 1937 – first to use the title “County Executive” – First to adopt “County Legislature” instead of Board of Supervisors
 - Article IX – State Constitution – 1963
 - Municipal Home Rule Law – implementing Article IX

County Government Without a Charter - The County Board, or Legislature



- Quasi-parliamentary – most formal power resides in legislative body
- Chair of legislature is chief elected
- No elected executive – County administrator/ other administrative officers appointed by and accountable to the board
- Countywide elected officers persist – D.A., Sheriff, Treasurer, Clerk, Judge
- Some legislative powers may not be delegated to the administrator – e.g. appointment and removal of department heads
- Board of Supervisors – Historic rural form - County government as derivative of town government,
- County Legislature – Largely in response to one-person-one-vote decision of U.S. Supreme Court
- Operates and is structured under:
 - ✦ State constitution – home rule provisions
 - ✦ Options Provided in State law

Charter-based alternatives



- **Designed locally/Adopted at referendum**
- **Options expanded**
 - Separation of Powers possible – elected legislature and elected executive
 - Elected Legislature with Appointed Manager
 - ✦ Sullivan and Schenectady Counties
 - ✦ Qualifications, Appointment and Removal of Manager are specified in charter
 - ✦ Manager's Powers are specified in charter
 - ✦ Powers exceed those of administrator

The Legislature/Manager System

6

- **The Legislature Retains all Legislative Powers and ultimate governing authority, including:**
 - Passing local laws
 - Adopting a budget
 - Authorizing borrowing
 - Overseeing performance of government
- **The Legislature elects its presiding officer, the chief elected**
- **The legislature hires a professional to act as the county's chief executive**
- **The executive, responsible to the legislature, operates the government**

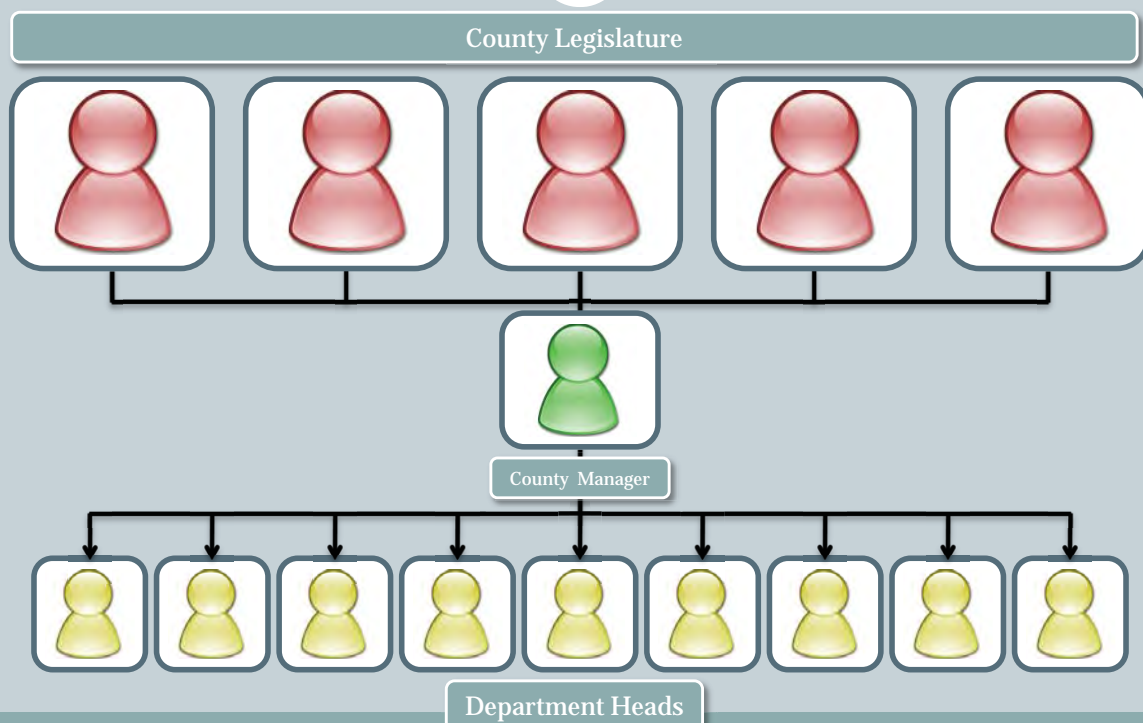
The Legislature-Manager Plan is a Partial Separation of Powers System developed on the Corporate model

7

- **Legislature is “Board of Directors”**
 - Makes Policy
 - Oversees Performance
 - Responsible to “Stockholders” (voters)
- **Executive is “CEO” who:**
 - Appoints department heads
 - Prepares budget
 - Directs day-to-day operations
 - Recommends policy
 - Is accountable to the board for government’s performance

The Legislature-Manager System

8



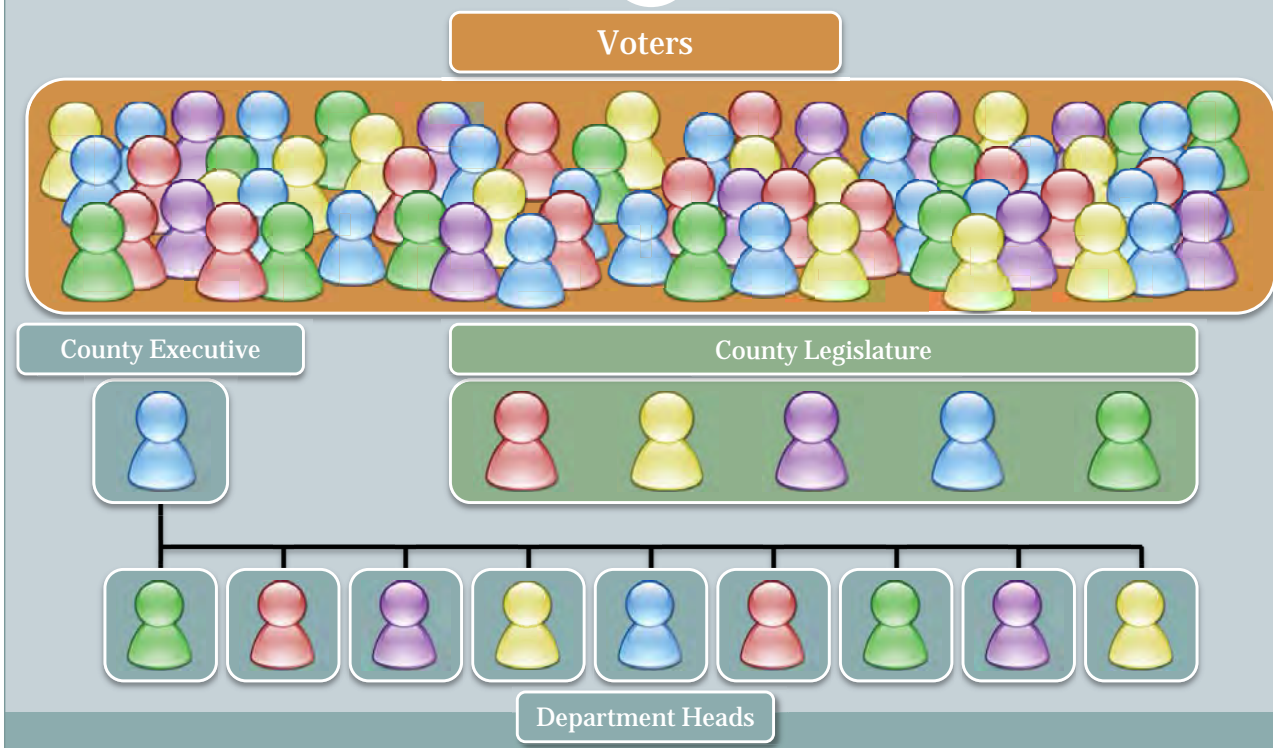
The “Strong Executive” Separation of Powers System

9

- Modeled on national and state government
- A full separation of powers system
- Voters elect an executive, the county executive, and vest him or her with “executive” powers
- Voters elect a Legislature, and vest it with legislative powers
- The executive has no vote in the legislature

The “Strong Executive” System

10



Strengths and Weaknesses of Legislature-Manager System

11

Strengths

- Trained, experienced professional management of the city government – “Neutral Competence”
- Chief executive not the voice of single local party or interest
- Charged with pursuing the well being of the entire community
- Well situated to draw upon “best practices” from across the state and nation
- Avoids concentrating political power in one person

Weaknesses

- Not deeply rooted in or initially committed to the community
- Career is not locally focused. Likely to “move on” as career develops
- No “democratic legitimacy” for policies arising from election
- Not as visibly identifiable to all in the jurisdiction
- Continuation subject to vagaries of legislative politics

Strengths and Weaknesses of Strong Executive System

12

Strengths

- Deeply rooted in community
- Program validated and legitimized by election
- Can call upon an already developed strong base of local support
- Single directive voice for county government
- Visible and accountable to citizens directly
- Empowered “Go to” person for external actors
- Status in state political system

Weaknesses




- May not be competent to manage a large, complex organization
- Governmental power too concentrated in a single person
- Increases prospect of inter-institutional conflict
- Partisan differences may reinforce institutional difference
- May be less responsive to groups outside his or her political base
- Personal political ambition may conflict with best interests of community
- Potential partisan barriers to intergovernmental collaboration

Questions?


13





Budgeting



Westchester Charter Commission – Budgeting



**GERALD BENJAMIN
DIRECTOR
CRREO
APRIL 27, 2013**



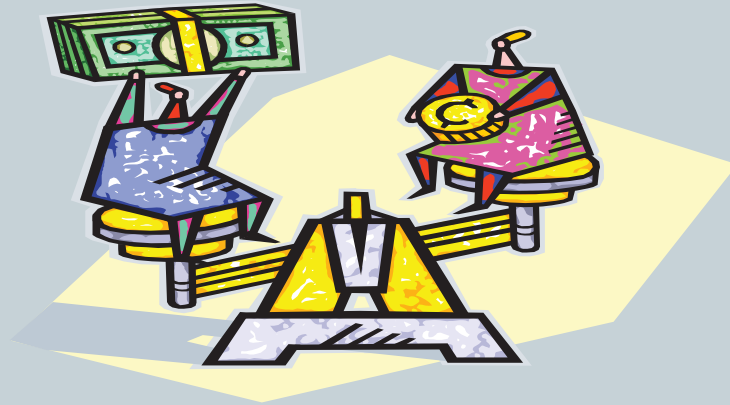
WESTCHESTER COUNTY, NEW YORK

10/11/2013

Local Budgeting – First Principles

2

- A synoptic view – getting and spending
- Balance



Budgets are Predictions

3

- Revenue Estimates
- Expenditures – Incremental Budgeting



Danger – Budget Politics - Examples

4

- Relying on “one shots”
 - Usually to reduce the property tax levy
- Overestimating revenues
 - Usually to reduce property tax levy
- Under estimating expenses
 - Usually to reduce property tax levy

E.g. Rockland - <https://www.documentcloud.org/documents/355625-state-comptrollers-audit-of-rockland-county.html>



Budgets are Management Tools

5



Executive and Legislature Core Responsibilities - Balance

6

- Executive

- Budget making
- Budget execution
- Accountability

- Legislative

- Taxing
- Appropriation
- Accountability/Oversight

Much Fiscal Activity is not Budgeting

7

- For example

- Cash management
- Disbursement
- Pre- and Post-Auditing
- Debt Placement

State Oversight and Constraint

8

- Constitution
 - Article V.1.
 - ✦ Legislature may (and has) assigned to the State Comptroller “supervision of the accounts” of the political subdivision of the state.
 - Article VIII.
 - ✦ Regulates incurring local debt and level of property taxation

The Budget Process and the Budget Document

9

- Multiple actors
- Diverse roles and responsibilities
- Different, sometimes conflicting, needs and perspectives

Appointing and Removal Authority – Budget Officer

10

- | | |
|---|---|
| <ul style="list-style-type: none">• County Law<ul style="list-style-type: none">○ Appointment - County Legislature or Board of Supervisors○ Removal – serve during pleasure of the board appointing him or her | <ul style="list-style-type: none">• Westchester Charter<ul style="list-style-type: none">○ Appointment – County Executive, for his term○ Removal – County Executive with 2/3 approval of Legislature |
|---|---|

Who Does What?

11

- Defines process, format, and timetable
- Prepares estimates of revenues and expenditures
- Receives and analyzes estimates, makes recommendations
- Acts on recommendations
- Exercises final authority

Budget Timetable

12

- | <ul style="list-style-type: none">● County Law<ul style="list-style-type: none">○ Annual year is fiscal year○ Dept. Estimates by 10/1 (up to 1 month earlier by local action)○ Tentative budget by 11/15 (or as early as 10/15)○ Committee review or report – within 15 days of receipt (may be 10 to 20)○ Public hearing – no later than 12/20○ Default – tentative budget | <ul style="list-style-type: none">● Westchester Charter<ul style="list-style-type: none">○ Annual year is fiscal year○ Dept. submissions – 9/10○ To Legislature – 11/15○ Hearing – notice 12/1 – held by 3rd Monday in December○ Adoption – 12/27○ Default – last year's budget |
|---|--|

Budget Format and Required Information

13

- | <ul style="list-style-type: none">● County Law<ul style="list-style-type: none">○ Message○ Organization by administrative unit and subunit○ Spending – character or object○ Revenue – source○ Additional information as required○ Specified detail – major categories○ Last full year, current year, requested, recommendation○ Appropriation resolution | <ul style="list-style-type: none">● Westchester Charter<ul style="list-style-type: none">○ Message○ Organization by department○ Spending – character and object, recurring and nonrecurring expenses○ Revenue – source○ Last full year, current year, requested, recommendation○ Additional information as required |
|--|---|

Who Does What?

14

- | | |
|---|---|
| <ul style="list-style-type: none">• County Laws<ul style="list-style-type: none">○ Estimates – Dept. Heads○ Tentative Budget and Budget Message – Budget Officer○ Review – Legislative Finance Committee○ Recommended Revisions – Legislative Committee○ Revisions – Legislature○ Hearings – Legislature○ Adoption - Legislature | <ul style="list-style-type: none">• Westchester Charter<ul style="list-style-type: none">○ Estimates – Dept. Heads○ Proposed Budget – Budget Director○ Budget Message – County Executive○ Review – Committee on Budget and Appropriations○ Recommended Revisions - Committee○ Revisions - Legislature○ Hearings - Legislature○ Adoption - Legislature |
|---|---|

Changes to Budget - Westchester

15

- Increases and additions subject to memorandum and public hearing
- County Executive may veto increases and additions
- The County Board may override the Executive's veto by a 2/3 majority vote
- If expenditures are increased, revenues must also be increased to maintain a balanced budget

Changes to Budget – Other Counties

16

- **Require Executive approval of all changes**
 - Broome, Chautauqua, Chemung, Dutchess, Orange, Putnam, Rockland, Ulster
- **Require Executive approval of additions/increases**
 - Albany, Erie, Nassau, Oneida, Onondaga
- **No Executive approval required**
 - Rensselaer, Schenectady (Manager System), Suffolk, Tompkins

Budget Time Table

17

- | | |
|---|---|
| <ul style="list-style-type: none">• Suffolk County<ul style="list-style-type: none">○ Annual year is fiscal year○ Dept. Submissions – not specified○ To Legislature – by 3rd Friday in September○ Hearing – two prior to submission of proposed budget; two by Oct. 31 or 42nd day after proposed budget is submitted○ Adoption – Nov. 10 or 52nd day after proposed budget is submitted○ Default- proposed budget | <ul style="list-style-type: none">• Westchester County<ul style="list-style-type: none">○ Annual year is fiscal year○ Dept. submissions – 9/10○ To Legislature – 11/15○ Hearing – notice 12/1 – held by 3rd Monday in December○ Adoption – 12/27○ Default – last year's budget |
|---|---|

Budget Format and Required Information

18

• Suffolk County

- Message
- Organized by funds and administrative unit
- Spending – character and object
- Revenue – source
- Comparative info for last full year, 7 months of current year
- Appropriation resolution
- Detailed statement of each line, item, program, expenditure, revenue, and object

• Westchester County

- Message
- Organization by department
- Spending – character and object, recurring and nonrecurring expenses
- Revenue – source
- Comparative info for last full year, current year, requested, recommendations
- Additional information as required

Who does what?

19

• Suffolk County

- Estimates – Dept. Heads
- Proposed Budget – County Executive
- Budget Message – County Executive
- Review – Legislative Budget Review Office (quarterly)
- Recommended Revisions – Legislature
- Revisions - Legislature
- Hearings –
 - ✦ County Executive – holds 2
 - ✦ Legislature – holds 2
- Adoption – Legislature

• Westchester County

- Estimates – Dept. Heads
- Proposed Budget – Budget Director
- Budget Message – County Executive
- Review – Committee on Budget and Appropriations
- Recommended Revisions - Committee
- Revisions - Legislature
- Hearings - Legislature
- Adoption - Legislature

Other Counties – Timetable

20

- Nassau County – Fiscal year begins October 1
- Monroe County – Dept. estimates submitted prior to the beginning of each fiscal year (Jan. 1)
- Tompkins County – All budget deadlines established by County Administrator for each fiscal year

Other Counties – Budget Format and Required Information

21

- Rockland – last *two* completed fiscal years included in comparative info
- Erie – Recommendations not required in comparative info
- Albany – Budget message must offer an explanation in terms of “work programs”
- Chemung – Less detail required in charter. More executive discretion
- Dutchess, Erie – optional sub-classification by “function or activity”
- Sullivan – Budget process largely unspecified in charter

Unique Provisions – Other Counties

22

- Ulster – 3 Hearings in diverse locations
- Suffolk –
 - Limit in operating budget increase to 4%
 - First two public hearing held in different locations
 - Comparison with prior year's budget for 5 most populous NYS counties
- Nassau – Four year planning for operating budget
- Schenectady and Tompkins – County Managers prepare budget
- Rensselaer – 2/3 majority requirements for changes to budget that cause increase in tax rate
- Ulster – limits on revenue transfer

Questions?

23



County Attorney



Westchester Charter Commission – County Attorney



**GERALD BENJAMIN
DIRECTOR
CRREO
APRIL 27, 2013**



Duties and Responsibilities

State Law

2

- **State law applies in counties which have not adopted alternative provisions in their charters.**
- **County Law. § 501.1**
 - “legal advisor to the board of supervisors and every officer whose compensation is paid from county funds in all matters involving an official act of a civil nature.”
 - “shall prosecute and defend all civil actions and proceedings brought by or against the county, the board of supervisors and any officer whose compensation is paid from county funds for any official act, except as otherwise provided by this chapter or other law.”
 - “may employ counsel to assist in any civil action or proceeding brought by or against the county or any county officer in his official capacity.”

Duties and Responsibilities

Westchester County

3

- **Charter § 158. 1,2. The County Attorney**
 - “...shall have charge of and conduct all of the civil law business of the County of Westchester and its departments. He shall have charge of and conduct all legal proceedings instituted for and on behalf of or against the county...”
 - “...shall prepare and approve as to form, all leases, deeds and contracts of the county which are to be executed by the county executive or on behalf of the county board, also all contract bonds and/or undertakings executed to the county, and certify that the same are in proper form and properly executed.”
 - “...shall also have the authority to present criminal proceedings relating to violations of probation to the Courts in conjunction with the Westchester County Probation Department.”
 - “...shall be legal advisor to the County Board and to each and every board, body, commission or officer of the County of Westchester and to each and every employee of the County of Westchester as may be required by section 297.31 of the Westchester County Administrative Code.”
 - “No such officer, employee, board, body, commission or department of the county shall have or employ any attorney or counsel at the expense of the county unless specifically authorized to do so by the County Board.”

Models

4

- **Albany and Suffolk Counties:**
 - “shall prosecute **and** defend on behalf of the County all civil actions and proceedings brought by or against the County, County officers and employees. She shall prepare all necessary papers and written instruments in connection with such representation...” – Albany County Charter, § 1502.
- **Broome, Chemung, Dutchess, Erie, Monroe, Oneida, Onondaga, Orange, Putnam, Rensselaer, Rockland, Sullivan, Tompkins, and Ulster Counties:**
 - “in all county legal matters of a civil nature, advise all county officers and employees and, where in the interest of the county, prepare all necessary papers and written instruments in connection therewith, prosecute **or** defend all actions or proceedings of a civil nature brought by or against the county...” – Erie County Charter, § 602.
- **Nassau County:**
 - “shall represent the county and all departments, officers, institutions and agencies thereof, in all litigation and proceedings, shall act as legal adviser of the county...” - § 1102.
- **Chautauqua and Herkimer Counties:**
 - These Counties’ Charters do not include a section on the County Attorney.

Appointing Authority Chartered Counties

5

- **County Executive – With advice and consent of the legislature**
 - Albany, Broome, Chemung, Dutchess, Erie, Oneida, Onondaga, Orange, Putnam, Rensselaer, Rockland, Suffolk, and Westchester Counties
 - E.g. “The County Attorney shall be appointed by the County Executive subject to confirmation by the County Legislature” – Albany County Charter, § 1501.
- **County Executive – No advice and consent needed**
 - Monroe and Ulster Counties
 - E.g. “The County Attorney shall be appointed by the County Executive.” – Monroe County Charter, § C6-6.
- **Legislature (Note: No elected executive)**
 - Sullivan and Tompkins Counties
 - E.g. “There shall be a Department of Law, headed by the County Attorney, appointed by the County Legislature.” – Sullivan County Charter, § C4.00

Appointing Authority State Law

6

- Effective in the absence of an alternative charter provision
- § 500. County attorney; term. 1. “The board of supervisors of each county shall appoint a resident attorney-at-law as county attorney for the term of office for which the then members of such board were elected.”

Removal

7

- **County Executive:**
 - Albany, Broome, Chemung, Dutchess, Oneida, Onondaga, Orange, Rockland, Suffolk, Ulster
 - E.g. “...shall serve at the pleasure of the County Executive.” – Onondaga County Charter, § 701.
- **County Executive with consent of Legislature:**
 - Putnam and Rensselaer Counties
 - E.g. “...shall serve at the pleasure of the County Executive, except that he may be removed from office by the County Executive only with the consent of the County Legislature.” – Rensselaer County Charter, § 4.00.
- **Legislature:**
 - Tompkins and Sullivan Counties
 - E.g. “...shall be appointed by, be directly responsible to, and serve at the pleasure of the Tompkins County Legislature.” – Tompkins County Charter, § C-7.00
- **Silent:**
 - Erie, Monroe, Nassau, Westchester

County Legislature Seeks AG Opinion on County Attorney Conflict of Interest

8

- **Chairman Ken Jenkins wrote to State Attorney General Eric Schneiderman on May 29, 2011:**
 - “... It is crucial to the operations of Westchester County government and the Board of Legislators to determine the specific duties of the County Attorney regarding representation of the Board of Legislators when there is a conflict between the interests of the Board of Legislators and an officer paid compensation from County funds including the County Executive.”

Conflict of Interest State Law

9

- **§ 501.2. “Whenever the interests of the board of supervisors or the county are inconsistent with the interests of any officer paid his compensation from county funds, the county attorney shall represent the interests of the board of supervisors and the county. In such case the officer may employ an attorney-at-law at his own expense unless the provisions of section eighteen of the public officers law are applicable.”**

Conflict Provision Within the Charter – Legislature Is Preferred

10

- **Putnam County:**
 - “Whenever the interests of the County Executive and the Legislature are inconsistent, the County Attorney shall represent the interests of the Legislature. In such event, nothing herein shall be construed to deny the County Executive access to obtaining legal counsel at County expense. The County Attorney shall comply with any and all lawful and permissible resolutions which may be adopted by the Legislature. If said resolution is vetoed by the County Executive, the County Attorney shall represent the Legislature only where the veto is overridden. If the override fails, the County Attorney shall represent the will of the County Executive.” - § 8.05.

Legislative Counsel – Charter Provisions

11

- **Dutchess County: Separate Counsel to the Legislature**
 - “There shall be a counsel to the Legislature who shall be appointed by the Chairman of the Legislature subject to the confirmation of the County Legislature ... He shall be directly responsible to, and serve at the pleasure of, the County Legislature.” – § 2.14.

Rules of Professional Conduct

12




- 1.7. Conflict of interest: Current clients –
“(a) Except as provided in paragraph (b) a lawyer shall not represent a client if a reasonable lawyer would conclude that... “(1) the representation will involve the lawyer in presenting different interests”
“(b) Notwithstanding the existence of a concurrent conflict in section (a) a lawyer may represent a client if: (1) the lawyer would reasonably believe that the lawyer will be able to provide competent and diligent representation to each affected client.”

Questions?

13




Initiative and Referendum



Initiative and Referendum

**PRESENTATION TO THE WESTCHESTER COUNTY
CHARTER COMMISSION**



WESTCHESTER COUNTY, NEW YORK

April, 2013

Initiative and Referendum

2

- **Initiative and Referendum Institute -**
http://www.iandrinstitute.org/statewide_i%26r.htm
- **Bypassing the Legislature – “Direct Democracy”**
 - Constitutional Change – 18 states
 - Statutory Change – 21 States
- **Process particulars are various**

Referendum in New York: State Level

3

- **New York is not an initiative state**
- **I&R proposed twice by Governor Pataki**
- **Constitutional amendment passed by State Senate in 2011.** <http://www.nysenate.gov/press-release/senate-passes-initiative-and-referendum>
- **Current Practice - State-Level Referenda**
 - Full faith and credit borrowing
 - Constitutional amendments
 - Calling a Constitutional Convention

Mandatory Referendum in New York - Local Level – Constitution -Annexation

4

- Annexation - Home Rule - State Constitution – IX 1.d

“No local government or any part of the territory thereof shall be annexed to another until the people, if any, of the territory proposed to be annexed shall have consented thereto by majority vote on a referendum and until the governing board of each local government, the area of which is affected, shall have consented thereto upon the basis of a determination that the annexation is in the over-all public interest. The consent of the governing board of a county shall be required only where a boundary of the county is affected. On or before July first, nineteen hundred sixty-four, the legislature shall provide, where such consent of a governing board is not granted, for adjudication and determination, on the law and the facts, in a proceeding initiated in the supreme court, of the issue of whether the annexation is in the over-all public interest.

Mandatory Referendum in New York

- Local Level – Constitution:

Alter Form of County Government / Abolish Office / Transference of Function

5

- Home Rule – IX 1.h.1

(h) (1) Counties....[may]... ***adopt, amend or repeal alternative forms of county government...[including]... transfer one or more functions or duties ... [or]... may abolish one or more offices, departments, agencies or units of government...*** however.... no such form or amendment, except as provided in paragraph (2) of this subdivision, shall become effective ***unless approved on a referendum by a majority of the votes cast thereon in the area of the county outside of cities, and in the cities of the county, if any, considered as one unit.***

“Where ***an alternative form of county government*** or any amendment thereof... provides for the ***transfer of any function or duty to or from any village*** or the ***abolition of any office, department, agency or unit of government of a village wholly contained in such county***, such form or amendment shall not become effective unless it shall also be ***approved on the referendum by a majority of the votes cast thereon in all the villages so affected considered as one unit.***”

Permissive Referendum in New York

Local Level- Constitution:

Removal of or Alteration of Elected Officer's Power/Alter Composition of Legislature

6

- Home Rule – IX.2
- “(2) After the adoption of an alternative form of county government by a county, any amendment thereof by act of the legislature or by local law which abolishes or creates an elective county office, ***changes the voting or veto power of or the method of removing an elective county officer during his or her term of office, abolishes, curtails or transfers to another county officer or agency any power of an elective county officer or changes the form or composition of the county legislative body*** shall be subject to a ***permissive referendum*** as provided by the legislature.”

Local Referenda – New York

Municipal Home Rule Law

7

- Mandatory Referenda – Article III Section 23 – Structural and Process Questions

<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLMHR0A3+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=26878212+&TARGET=VIEW>

- Permissive Referenda – Article IV Section 24 – Applicable areas of local policy

[http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=\\$\\$MHR24\\$\\$@TXMHR024+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=26878212+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$MHR24$$@TXMHR024+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=26878212+&TARGET=VIEW)

Westchester - Local Law:

Subject to Mandatory Referendum

8

- **Process – Passage by majority voting on question, review by Supreme Court**
- **Sec. 209.161. Mandatory referendum – “if it abolishes or creates an elective office; changes the voting or veto power of, or the method of removing, an elective officer; changes the term of office or reduces the salary of an elective officer during his term of office; abolishes, transfers or curtails any power of an elective officer; changes the form or composition of the elective governing body of the county; or provides a new form of government for such county.”**

Westchester - Local Law:

Subject to Permissive Referendum

9

- **Process:**
 - Petition by 10% of voters in last gubernatorial elections.
 - Filed with Board of Elections
 - Objections resolved in State Supreme Court
 - Passed by majority voting on the question.
 - At general or county scheduled a special election.
 - May be reconsidered by County Board after petition filed
- **Substance:**
 - Dispenses with a public notice or hearing requirement;
 - Changes law relating to:
 - ✦ public bidding, purchases or contracts; assessments or special assessments or condemnation;
 - ✦ authorization or issuance of county debt; auditing of the county's accounts; maintenance or administration of a pension fund;
 - ✦ the alienation or leasing of county property;
 - ✦ increase in salary of an elective officer during term.

Other Charter Counties:

Permissive Referenda

10

- Charter Change – e.g. Albany, Chautauqua, Erie (Often Ref. MHRL 3,4)
- Redistricting (permissive) – e.g. Broome, Dutchess, Herkimer
- Local Law – Chemung, Dutchess, Erie – mandatory or permissive Ref. MHR Law 3, 4 (Erie adds if required by charter, code)

Chautauqua, Erie:

Mandatory or Permissive referendum at local discretion

11

- E.g. Chautauqua - “Section 210. Referendum. A **local law** shall be subject to mandatory or permissive referendum when required by this Charter or applicable law. Where no mandatory or permissive referendum is so required, **the County Legislature may nevertheless provide in a local law that a referendum shall be had or that it shall be subject to permissive referendum.**”
- Not applicable to ordinances

Erie:

Tax or Fee Increase (If No Extraordinary Majority)

12

- **Section 2516:** “Imposition and increases in the other county taxes and fees. Hereafter, no new form of county tax maybe imposed, and the county of Erie's three per centum sales and use tax and fees or charges established by the county Legislature shall not be increased except by a resolution approved by: (a) the affirmative vote of two thirds of the whole number of the membership of the county Legislature, or, (b) the affirmative vote of a majority of the whole number of the membership of the county Legislature submitting a proposition for such imposition or increase to a mandatory referendum to be held pursuant to article three of the county law”.

Charter Change by I&R- Suffolk - Process

13

Article VII. C7-3:

- **Sponsor prepares text and acquires signatures equal to 2.5% w/in each town of voters in last gubernatorial election**
- **Files timely with county clerk - \$75 filing fee**
- **Board of Elections Determines validity of petitions**
- **County Attorney timely prepares abstract and summary in plain language**
- **Bd. of Election determines final validity and places on ballot –**
- **Passage – Majority of “all persons voting” in the election**

Charter Change by I&R- Suffolk - Limits

14

- Term of Office of Sitting Elected Official - “...no measure may affect the term of office of an elected official who is in office on the day of the referendum vote.”
- Budget Change – “...if the measure requires a change in the County budget, then the measure shall not take effect until the second following January 1. This time period will be necessary so that the affected department may provide for the changed spending in the annual budget.”
- Transfer of function – “If the proposed measure purports to transfer any authority, function, responsibility or cost of the County to a town, village, special district or other unit or form of government wholly contained or created within the County, then such measure shall not become operative unless and until it is approved at a general election by a majority vote of all persons voting in such election and a majority of all the votes cast thereon in the jurisdictions so affected.”

Charter Commission With Direct Ballot Access: Ulster

15

Section A.1-7 (B) (4):

- The Commission, by two-thirds vote of its members, may place directly before the voters for their approval at referendum proposals to amend or revise Charter provisions pertaining to the County in Article II or III of the Charter. These amendments or revisions must be filed with the Ulster County Board of Elections timely so as to allow a vote upon it at the next scheduled general election after the Commission reports. No later than one month before the scheduled referendum at which its adoption will be considered, the Commission must hold at least one public hearing on any Charter change proposed directly to the ballot. Amendments or revisions proposed directly to the ballot by the Commission will be deemed adopted if approved by a majority of voters casting ballots on the question during the next scheduled general election. Notwithstanding other provisions of the Charter, if the Charter Commission proposes a matter for direct ballot consideration, the Commission will continue to function until the day after election day of the year of consideration of its proposal on the ballot.

Charter Change :

Permitted, or Unlawful Delegation (Masked Statutory Change)?

16

- E.g. NYC
- I&R - OK
 - Civilian Review Board – 1966
 - Term Limitations for City Council.
- I&R - Not OK
 - 1960's – Anti-Vietnam War
 - 1985 – Barring harboring of ships with nuclear weapons aboard

Questions?

17



Charter Change Process



Westchester Charter Commission – Charter Change Process

1

**GERALD BENJAMIN
DIRECTOR
CRREO
MAY 9, 2013**



“The Tree of Liberty must be refreshed from time to time...” Thomas Jefferson (1787)

2

Change Processes are Essential Elements of Basic Governing Documents

- Correction of error
- Changed social, economic, demographic, technological, cultural conditions
- Reconfirmation of values

Amendment and Revision

3

- **Amendment – Altering a single provision, change that is focus in character and narrow in scope**
- **Revision – Broad, extensive review and reconsideration of the entire document**

A role for those in power?

4

- **Through the existing governmental institutions**
 - Initiating change
 - Recommending change
 - (Sometimes) Approving change
- **Bypassing the existing governmental institutions**
 - When the governing institutions are not functioning well
 - When those in power in government personally or professionally benefit from the status quo (e.g. redistricting)
 - But how?

Requiring a Referendum Vote Theoretical Rationale

5

- “demos kratos” - the people rule
- The people create their government by ratifying (accepting) the charter at the polls
- The people must give approval to altering their governmental institutions – mandatory referendum
- The people may intervene on “lesser matters” if they choose to do so

1. State Law - County Legislature may propose a charter or charter change

6

Municipal Home Rule Law:

§33.1 “[T]he board of supervisors of any county...shall have power to prepare, adopt, amend or repeal a county charter.”

§33.5 “ The board of supervisors by resolution may provide that a draft of a proposed county charter, or of an amendment or repeal thereof, shall be prepared under its supervision, the supervision of an officer or committee of the board, or by a charter commission appointed by or pursuant to such resolution.”

The Westchester Charter Commission Created by Legislative Action

7

- Established by Act 34-2011 the Westchester County Legislature
- 23 Members
- “ Review and recommend changes to the Westchester County Charter and Administrative Code.”
- “Study Westchester County operations and consider Westchester County’s relations with the various cities, towns and villages within the County, including any amendments which would facilitate the delivery of services to the public and better coordinate the administration of such services.”

2. State Law -Popular action to create a county charter commission

8

- §33.6. “Where a **petition** is filed with the clerk of the board of supervisors signed by electors of the county equal in number to at least **ten per centum** of the whole number of votes cast in the county for governor at the last gubernatorial election, asking that a charter commission be created by the board of supervisors and be composed and appointed as provided by the board of supervisors, and where the board of supervisors does not on its own motion create and appoint or provide for the appointment of such a charter commission within three months after such filing, the board of supervisors shall cause a proposition to be submitted to the electors of the county at the next general election occurring not less than five months after such filing, on the question of whether such a charter commission should be so established and appointed.”

Mandatory Referendum in New York

- Local Level – Constitution:

Alter Form of County Government / Abolish Office / Transference of Function

9

- Home Rule – IX 1.h.1

(h) (1) Counties....[may]... **adopt, amend or repeal alternative forms of county government**...[including]... **transfer one or more functions or duties ... [or]... may abolish one or more offices, departments, agencies or units of government**... however.... no such form or amendment, except as provided in paragraph (2) of this subdivision, shall become effective **unless approved on a referendum by a majority of the votes cast thereon in the area of the county outside of cities, and in the cities of the county, if any, considered as one unit.**

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Westchester - Local Law:

Subject to Mandatory Referendum

12

- **Process – Passage by majority voting on question, review by Supreme Court**
- **Sec. 209.161. Mandatory referendum – “if it abolishes or creates an elective office; changes the voting or veto power of, or the method of removing, an elective officer; changes the term of office or reduces the salary of an elective officer during his term of office; abolishes, transfers or curtails any power of an elective officer; changes the form or composition of the elective governing body of the county; or provides a new form of government for such county.”**

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 - Dispenses with a public notice or hearing requirement;
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 - ✦ public bidding, purchases or contracts; assessments or special assessments or condemnation;
 - ✦ authorization or issuance of county debt; auditing of the county's accounts; maintenance or administration of a pension fund;
 - ✦ the alienation or leasing of county property;
 - ✦ increase in salary of an elective officer during term.

Compare Cities – Charter Change Initiation

14

- Voters – As in Counties
- Council – As in counties
- Mayor – No analogy in county law

Counties Alternative processes

15

- Counties without charters rely on processes specified in state law
- Most counties with charters explicitly reference and state law for charter change
- Westchester and Nassau are silent on charter change processes – These are the oldest county charters
- But several county charters include alternative charter change provisions

Oneida County

Specific Obligation of County Attorney

16

§2302 “The County Attorney shall have the authority and be charged with the responsibility to advise the Board of Legislators on an annual basis of any changes in New York State Law that would require amending the Charter by Local Law.”

Putnam County

17

- § 15.01.
- **Broadens potential sources for change proposals.** “A Charter amendment may be proposed by a member of the County Legislature, the County Executive or the Legislative bodies of any of the towns or villages of the County.”
- **Extraordinary legislative majority to enact.** “The proposal must then be enacted by a local law passed by a two-thirds (2/3) vote of the County Legislature subject to referendum on petition as provided in the Municipal Home Rule Law.”
- **Mandatory referendum to move function.** “Any proposed amendment which would have the effect of transferring a function or duty of the County or of a town, village, district or other unit of local government of the County shall not become operative unless it is approved by mandatory referendum.”
- **Permissive referendum for a broader array of matters eases change through legislature.** “Any amendment which would create or abolish an elected office; change the power of an elected County officer during his or her term of office; abolish, curtail or transfer to another County officer or agency any power of an elected County officer, or change the method of election of the County Legislature, but not including decennial reapportionment, shall be subject to a permissive referendum.”

Mandatory Periodic Creation of a Charter Commission

18

- Oneida - §2302 “**Every five (5) years**, the Board of Legislators shall appoint an independent non-partisan Charter Reform Commission to review and make recommendations of any and all additional changes needed to the Charter and Administrative Code.
- Sullivan § C1.05 A. Within two years after the enactment of this Charter, the County Legislature shall appoint a Charter Revision Commission, composed of qualified electors of Sullivan County and representing various segments of the community, to review the implementation of the Charter and propose amendments, if required. Additional Charter Revision Commissions, composed of qualified county electors chosen by the County Legislature and representing various segments of the community, shall be appointed at least once **every 10 years thereafter** to review and propose revisions to this Charter, if required.

Ulster County – Broad Sources of Change

19

- “The County Executive, any Legislator, the Legislature collectively or any person may make recommendations at any time to the County Legislature for amendments to the Charter. A proposed amendment or proposed amendments to this Charter may be adopted in the manner provided by the Municipal Home Rule Law. “

Ulster County Automatic Commission and Process

20

- § C-5 B. Amendment or revision by Commission. Within five years after the enactment of this Charter, and at least every 10 years thereafter, a Charter Revision Commission shall be appointed to review and make recommendations to the County Executive and Legislature on amendments, additions or revisions to this County Charter. The Commission shall consist of 11 qualified electors of Ulster County and representing the different geographic areas and reflective of the demographic diversity of the County, with five members appointed by the County Executive, three members to be appointed by the leader of the party in the Legislature with the most members, and three members by the leader of the party in the Legislature with the second most members. No appointee to this Commission shall be a County employee or elected official at the time he or she serves on this Commission.
- (1) The first meeting of the Commission members shall be convened by the County Executive in the second week after the deadline for its appointment for the purposes of electing a Chairman and receiving its charge. The Chairman of this Commission shall be elected at that meeting by a majority vote of the entire membership of the Commission.
- (2) The Legislature shall provide such funds as are necessary for the Commission to conduct its business effectively. ...
- (3) The Commission shall call upon necessary expertise in the community and state, shall hold public hearings to gather citizen opinion on the strengths and weaknesses of the Charter and proposed improvements, and shall maximally publicize its work through the print and electronic media and the County website. The Commission shall issue a written report to the County Legislature and County Executive at the conclusion of its deliberations, but no later than one year from the date of its first meeting, containing its findings and recommendations, if any, for amendments or revisions of the Ulster County Charter to be placed by the County Legislature before the people of Ulster County for their consideration at the next scheduled general election at least 60 days after the report is delivered to the Clerk of the Legislature. The Commission shall be dissolved on the day following its report or one year and one day from the date of its first meeting.

Ulster Charter Commission: Direct Ballot Access

21

Section A.1-7 (B) (4):

- “The Commission, by two-thirds vote of its members, may place directly before the voters for their approval at referendum proposals to amend or revise Charter provisions pertaining to the County in Article II or III of the Charter. These amendments or revisions must be filed with the Ulster County Board of Elections timely so as to allow a vote upon it at the next scheduled general election after the Commission reports. No later than one month before the scheduled referendum at which its adoption will be considered, the Commission must hold at least one public hearing on any Charter change proposed directly to the ballot. Amendments or revisions proposed directly to the ballot by the Commission will be deemed adopted if approved by a majority of voters casting ballots on the question during the next scheduled general election. Notwithstanding other provisions of the Charter, if the Charter Commission proposes a matter for direct ballot consideration, the Commission will continue to function until the day after election day of the year of consideration of its proposal on the ballot.”
- Note – Articles II and III are executive and legislative articles.

Suffolk County – Initiative to Amend Charter

22

- § C7-1 Purpose of initiative procedure.
- “The initiative is a process, pursuant to state law, by which the people of Suffolk County may write their own proposals to amend the Suffolk County Charter. Amendments to the Charter may be proposed, unless otherwise preempted by state or federal law, consistent with the provisions of this article. No initiative petition may be filed with the intent to defeat the initiative measure embraced in the petition, although nothing prohibits a person from filing in good faith an initiative measure which conflicts with a measure already on file. An initiative is placed on the ballot after its sponsor has successfully met a series of deadlines which are embodied in this article.”

Charter Change by I&R- Suffolk - Process

23

Article VII. C7-3:

- Sponsor prepares text and acquires signatures equal to 2.5% w/in each town of voters in last gubernatorial election
- Files timely with county clerk - \$75 filing fee
- Board of Elections Determines validity of petitions
- County Attorney timely prepares abstract and summary in plain language
- Bd. of Election determines final validity and places on ballot –
- Passage – Majority of “all persons voting” in the election

Charter Change by I&R- Suffolk - Limits

24

- **Term of Office of Sitting Elected Official** - “...no measure may affect the term of office of an elected official who is in office on the day of the referendum vote.”
- **Budget Change** – “...if the measure requires a change in the County budget, then the measure shall not take effect until the second following January 1. This time period will be necessary so that the affected department may provide for the changed spending in the annual budget.”
- **Transfer of function** – “If the proposed measure purports to transfer any authority, function, responsibility or cost of the County to a town, village, special district or other unit or form of government wholly contained or created within the County, then such measure shall not become operative unless and until it is approved at a general election by a majority vote of all persons voting in such election and a majority of all the votes cast thereon in the jurisdictions so affected.”

Questions?

25



Selection of Department Heads in County Government



Westchester Charter Commission – Selection of Department Heads in County Government

1

**GERALD BENJAMIN
DIRECTOR
CRREO
MAY 9, 2013**



Selection of Department Heads

Points of Focus

2

- Mode of Selection – Appointment or Election
- Change Process – Election to Appointment
- Appointed Officials
 - Appointing Authority
 - Term of Service
 - Advice and Consent
 - Timely Action
 - Default Consequence
 - Removal

Appointment or Election

3

- Appointment - Counties as Creatures of the State – State Level Appointing Authority
- Election – Jacksonian Democracy
- Appointment – Progressive Reform – County Level Appointing Authority

Result: Current Mixed System

County-wide elected Officials – Non-charter counties

4

- County Judges
- District Attorney
- County Clerk
- Sheriff*
- Treasurer*
- Coroner*

*No longer elected in Westchester as a result of charter adoption

Making elective offices appointive

5

- Charter adoption or change - Referendum requirement – Treasurer, Sheriff
- New offices may be created – e.g. Comptroller
- Limitations in Law
 - “Constitutional Officers” - ???
 - Municipal Home Rule Law -§34.2.f County charter may not alter “The composition, functions, powers, duties or jurisdiction of a court or of the officers thereof”

Legislature as appointing authority – Non-charter counties

6

- **County Law. 400.4.(a)** “There shall continue to be appointed in the manner prescribed by law a clerk of the board of supervisors, a county attorney, county superintendent of highways, sealer of weights and measures and county historian. The board of supervisors may by local law provide for the appointment of additional county officers, define their powers and duties not inconsistent with law, and fix the term of their office. No officer appointed for a fixed term shall be removed by the board during his term without written charges and the opportunity to be heard.”
 - Note: This power may not be delegated to an Administrator.

Qualifications or characteristics for some positions set out in state law

7

- **Fixed term – e.g. Commissioner of Welfare**
- **Length of Term – e.g. Personnel Officer, Real Property Office Director – 6 years**
- **Qualifications – e.g. Health Department Head**
 - Commissioner: A licensed physician with certification by the American Board of Preventive Medicine, or a master's degree in public health or a related field...
 - Director: A master's degree in public health or in a related field from a regionally accredited or New York State-registered college or university.... Related fields may include but shall not be limited to public health nursing, health administration, community health education or environmental health.

Charter Counties – Manager system

8

- **Manager in County Manager Systems**
 - Manager Appoints
 - Legislative Advice and consent
 - Manager accountable to Board
- **Exceptions**
 - Board staff – e.g. Legislative Clerk
 - Direct report/advisors – e.g. County Attorney

Charter Counties – Separation of Powers System

9

- **Elected Executive Appoints**
- **Legislature Advice and Consent (simple majority)**
 - But often not required within executive office
- **Exceptions**
 - Legislative staff positions
 - “Except as otherwise provided” (e.g. Many)
 - Broome County
 - ✦ Division of Budget and Research, Division of Solid Waste Management
 - Chemung County
 - ✦ Division of Budget and Research, Division of Purchase, and Division of Central Services

Charter Counties – Transition and Consolidation

10

- Executive may serve him- or herself as department head w/o advise and consent
 - e.g. Oneida, Erie, Westchester
- Executive may appoint one person as head of two departments
 - Broome, Erie, Monroe, Oneida, Onondaga, Westchester

Westchester County Charter Provision

11

- §110.21 "The County Executive shall appoint to serve at his pleasure, except as otherwise provided in this act, and subject to confirmation by the County Board, the head or acting head of every department and office, the Chairman of the County Tax Commission and members of county boards and commissions."
- He may with the approval of the County Board act as head of one or more departments or with like approval appoint one head for two or more departments.
- Subject to confirmation by the County Board, the County Executive shall appoint a Commissioner of Human Resources as provided in section 179.21 of this act and a Real Estate Director as provided in section 170.01 of this act, and may appoint in his own office a Deputy County Executive to assist him in his administrative duties.
- The County Executive shall also appoint without confirmation by the County Board such other employees of his own office as may be authorized by the County Board.
- Appointments made by the County Executive shall be on the basis of the training and experience of such appointees in the work which they are to perform."

Duration of Appointment

12

- **At the pleasure of**
- **Fixed term**
 - Length of term and independence from electoral outcomes
- **Duration of elected appointing officer's term**
 - With provision for continuation in office until successor named

The advice and consent requirement

13

- **National and State government models**
- **Basis for legislative authority to require responsiveness**
- **Confidential relationship – Rationale for exception**

Timely filling of vacancies

14

- **Executive must:**
 - Make appointment within 30 days of occurrence of vacancy
 - ✦ Albany, Ulster
 - Notify legislative clerk within 10 days of appointment
 - ✦ Chemung, Erie, Putnam
 - Provide to legislature two weeks in advance of next scheduled legislative meeting
 - ✦ Ulster

Legislature Timely consideration of appointment

15

- 30 (Erie), 40 (Oneida), 45 (Many), or 60 (Rockland) days after the appointment is filed with the legislative clerk
- The next regular meeting occurring more 15 days after the appointment was filed with the Clerk of the Legislature (Chemung)
- 2 regular meetings after the appointment has been filed with the Clerk of the Legislature (Broome)

Failure of timely action

16

- If legislature fails to take timely action nomination confirmed by default (Many)
- When the County Executive fails to make an appointment in the 30 day time limit, the Legislature may make the appointment. (Albany, Ulster)
 - Note – Recent Health commissioner issue
- When the Legislature fails to either confirm or deny within the 45 day time limit, the appointment is confirmed. (Albany)

Reconsideration after failure of consent

17

- Specified time must elapse before same person may be reconsidered
- “When an appointment is rejected by the Legislature, the same appointment may not be resubmitted by the County Executive without the approval of the Legislature.”
 - Rockland
- Rejected appointee may not be re-nominated during Executive’s term of office.
 - Ulster

Charter Counties – Removal

18

- **Removal by appointing authority**
 - **With advice and consent**
 - ✦ Chautauqua
 - **Without advice and consent**
 - ✦ Nassau, Schenectady, Tompkins, Westchester
- **Default removal as result of end of appointing authority's term**
 - “No such appointee shall hold office beyond the term of the County Executive by whom the appointment was made, except that, unless removed, he shall continue to serve until his successor is appointed and has qualified or until an interim appointment is made, unless otherwise provided in this Charter.” – multiple charters
 - ✦ Albany, Broome, Chemung, Erie, Monroe, Oneida, Onondaga, Ulster

Westchester – Removal Process

19

- Westchester §110.31 “The County Executive, except as herein otherwise provided, may remove or suspend any officer or employee appointed under the authority of the preceding section, provided that in the case of those department heads or members of boards and commissions appointed for a definite term, no removal shall be made until the person to be removed has been served with a written notice of the charges as the basis for his removal and given an opportunity to be heard, publicly if he desires, thereon by the County Executive.”
- Westchester §113.11 “The Budget Director shall be appointed for the term of the County Executive. He may be removed by the County Executive in the same manner as other department heads, provided, that no such removal shall take effect unless approved by a two-thirds vote of all members of the County Board.”

Questions?

20



County-Wide Real Property Tax Assessment



Westchester Charter Commission –County- wide Real Property Tax Assessment

1

**GERALD BENJAMIN
DIRECTOR
CRREO
MAY 9, 2013**



The Real Property Tax in NYS - Primary Local Discretionary Revenue Source

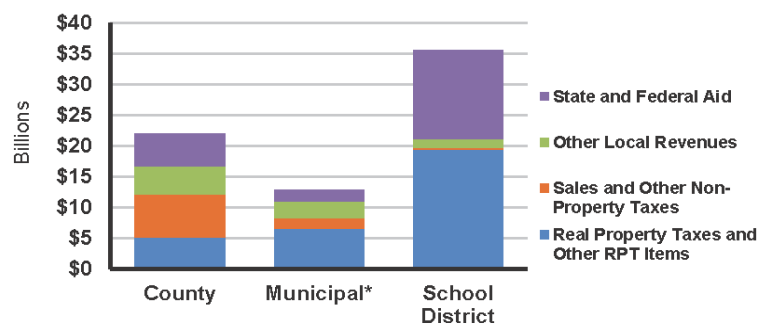
2

- All localities - \$27.85 Billion in 2011
- Counties and cities less dependent – sales tax available
- Westchester County – 2013 (\$548.4M)
- 22% of all counties' revenues (on average)
- 31/8% of Westchester County Revenue

Local Reliance on the Property Tax

3

Major Revenue Sources by Class of Local Government, 2011



Source: OSC; excludes New York City.

*Includes cities, towns, villages, fire districts and special districts.

$$R \times B = T$$

4

- **T = Tax Needed – local board**
- **R = Rate of taxation – local board**
- **B = Base for taxation - assessor**

Property Tax Administration

5

- **Common revenue source for all localities**
- **Dispersed decision-making on needs**
- **Administration and administrative costs not shared**
 - **Assessment**
 - **Billing**
 - **Collection**
 - **Cash flow**
 - **Liability**
 - **Delinquency**

Assessing Jurisdictions

6

- Assessment is almost always a City, Town and Village Function in New York – Westchester has 41 assessing units
- There were 981 assessing jurisdictions in NYS in 2010 – Administrative structures varied
 - ✦ 859 used appointed assessors
 - ✦ 107 used elected boards
 - ✦ 12 used a sole elected assessor
- In accord with state policy, many villages now rely on town assessing –
 - ✦ Seven Westchester Villages are not assessing units
 - ✦ Westchester localities do not use elected assessors

New York Ranked 50th

7

- Council on State Taxation Index (May, 2011)
<http://cost.org/WorkArea/DownloadAsset.aspx?id=78745>
 - Standardize Procedures
 - Fair Tax Appeal Procedures
 - Residential v. Business Property
- Caveat: A business organization perspective
- New York's Grade: **F**

Equity?

Within and *Among* jurisdictions

8

- NYS Does mandates uniform assessment within jurisdictions, but no standard across jurisdictions
- Westchester Collaborative Assessment Commission Report (2011)
- “Periodic reassessments have not been the practice in Westchester County. Only the Towns of Pelham and Rye, as well as the Village of Bronxville have reassessed in the last decade.” p. 2.

Within-town equity in Westchester

The coefficient of dispersion (COD)

9

- The COD measures the degree to which the ratio of properties' assessed value (AV) to market value (MV) in a jurisdiction are dispersed around the median ratio of AV to MV.
- According to the International Association of Assessing Officers (IAAO), a community's COD should not exceed fifteen; this means that “approximately fifty percent of property owners are neither under-assessed or over-assessed by more than fifteen percent of fair market value.”

Westchester Town and City CODs in 2012

10

• City of Mt. Vernon	27.64	• Town of Eastchester	21.61
• City of White Plains	24.18	• Town of Lewisboro	20.31
• Town of Harrison	18.48	• Town of Mount Pleasant	9.98
• Town of North Salem	15.68	• Town of New Castle	6.24
• Town of Somers	7.3	• Town of Pound Ridge	16.43
• City of New Rochelle	14.43	• Town of Scarsdale	8.5
• City of Yonkers	22.5	• Town of Mount Kisco	17.15
• Town of Greenburgh	22.87	• City of Rye	22.87
• Town of Ossining	15.68	• Town of Cortlandt	13.56
• Town of Yorktown	8.58	• Town of Mamaroneck	16.55
• City of Peekskill	21.07	• Town of North Castle	10.31
• Town of Bedford	15.13	• Town of Pelham	N/A
		• Town of Rye	N/A

Inter-town Equity in Westchester Equalization Rates

11

- Equalization is needed to assure financing of entities (e.g. the county, school districts) that include properties in more than one assessing jurisdiction
- Equalization Rate = Total Assessed Value of a Municipality divided by its Total Market Value
 - $ER = \sum AV / \sum MV$
 - If $ER = 100$ properties are assessed at market value
 - If $ER < 100$ properties are assessed below market value
 - If $ER > 100$ properties are assessed above market value

Inter-town Equity in Westchester State Equalization Rates 2012

12

• City of Mt. Vernon	3.59	• City of Peekskill	3.85
• City of White Plains	3.7	• Town of Bedford	9.76
• Village of Buchanan	15.57 (Tentative)	• Town of Eastchester	1.48
• Village of Tuckahoe	1.5	• Village of Ardsley	3.36
• Village of Elmsford	3.44	• Village of Irvington	3.36
• Town of Harrison	1.74	• Town of Lewisboro	10.62
• Village of Larchmont	1.76	• Town of Mount Pleasant	1.53
• Village of Pleasantville	8.65	• Town of New Castle	20.14
• Town of North Salem	10.13	• Village of Ossining	6.1
• Village of Pelham	100	• Town of Pound Ridge	16.8
• Village of Port Chester	100	• Town of Scarsdale	1.77
• Town of Somers	13	• Town of Mount Kisco	19.45
• City of New Rochelle	2.96	• City of Rye	2.06
• City of Yonkers	3.21	• Town of Cortlandt	1.86
• Village of Croton-on-Hudson	3.8	• Village of Bronxville	100
• Town of Greenburgh	3.36	• Village of Dobbs Ferry	3.28
• Village of Hastings-on-Hudson	3.17	• Village of Tarrytown	2.82 (Tentative)
• Village of Harrison	1.74	• Town of Mamaroneck	1.74
• Village of Mamaroneck	1.84 (Tentative)	• Village of Sleepy Hollow	25.8
• Village of Briarcliff Manor	1.53	• Town of North Castle	2.24
• Town of Ossining	6.1	• Town of Pelham	100
• Village of Pelham Manor	100	• Town of Rye	100
• Village of Rye Brook	100	• Village of Scarsdale	1.77
• Town of Yorktown	2.66	• Village of Mount Kisco	9.25 (Tentative)

Westchester Collaborative Assessment Commission - Conclusion

13

- “A systematic, consistent, accurate and completely computerized collection and recording of all property characteristics is needed for every parcel in Westchester County. With or without full reassessment, it is essential that property data be accurate, regularly maintained and available to the public. Regardless of any determinations made as a result of this report, it must be recognized that the continued use of the property tax as a major source of revenue for local governments requires a modern, equitable and transparent system. A new Countywide system will improve the accuracy of assessments that are used for tax purposes.” p. 30

Countywide Assessment as Reform

14

- **In favor**
 - Single assessing authority likely to produce greater intra-jurisdictional equity, as the “jurisdiction” is the entire county
 - Almost all need for equalization eliminated (exception, e.g. school district in more than one county)
 - Net savings in admin. costs
- **Opposed**
 - Diminished accessibility and responsiveness
 - Tax burden shift will occur
 - Savings in administration not proved

Countywide Assessment in New York State

15

- Nassau County – 1938
- Tompkins County – 1968
- Widespread interest – 2008 -
http://www.nyslocalgov.org/local_initiatives_county.asp
- Attempted but not achieved elsewhere (e.g. Fulton (2x), Madison)
- Demanding State Constitutional Requirement for transferring function

State Constitution – Home Rule

Triple Majority to Move Function

16

- Article IX.1. (h) (1) Counties, other than those wholly included within a city, shall be empowered by general law, or by special law enacted upon county request pursuant to section two of this article, to adopt, amend or repeal alternative forms of county government provided by the legislature or to prepare, adopt, amend or repeal alternative forms of their own. **Any such form of government or any amendment thereof, by act of the legislature or by local law, may transfer one or more functions or duties of the county or of the cities, towns, villages, districts or other units of government wholly contained in such county to each other or when authorized by the legislature to the state, or may abolish one or more offices, departments, agencies or units of government provided, however, that no such form or amendment, except as provided in paragraph (2) of this subdivision, shall become effective unless approved on a referendum by a majority of the votes cast thereon in the area of the county outside of cities, and in the cities of the county, if any, considered as one unit.** Where an alternative form of county government or any amendment thereof, by act of the legislature or by local law, provides for **the transfer of any function or duty to or from any village or the abolition of any office, department, agency or unit of government of a village wholly contained in such county, such form or amendment shall not become effective unless it shall also be approved on the referendum by a majority of the votes cast thereon in all the villages so affected considered as one unit.**

The Never-Created Westchester County

Department of Assessment

17

- Charter 125.01. [§ 37 of the Laws of 1937, Ch. 617; amended by the Laws of 1942, Ch. 624]
- “ At any general election following the adoption of this act there may be submitted to the electors of the county by act of the County Board in the manner hereinafter provided the question, "Shall there be a County Department of Assessment?" If the vote thereon, in accordance with the provisions of Article 9 of the Constitution, shall be in the affirmative, the subsequent provisions of this article shall become effective in the county. If a majority of the votes cast thereon as above provided, be in the negative, the same proposition may be submitted at any subsequent general election, but not more frequently than once in two years. Such question shall be so submitted if a petition praying its submission and signed by resident electors of the county qualified to vote at the last preceding general election equal in number to five percent of the total vote cast in such county for the office of governor at the last general election at which a governor was elected is filed with the officer or board having jurisdiction of elections in such county not less than 60 days prior to the general election at which it is to be submitted.”

http://www.ecode360.com/13186081#./11970091?&_suid=136735575407706663482790504375

The County Real Property Tax Agency

18

- The norm: Single-headed, appointed by executive with advice and consent, or by legislative body
- Westchester – **Executive Director** of Tax Commission appointed in this manner
- The Westchester **Tax Commission**
 - Unique
 - Bi-partisan, five members
 - Created to overcome “log-rolling” in Board of Supervisors in setting equalization rates

County Real Property Agency §1530 State Real Property Tax Law

19

- Dept. mandated – headed by director appointed for six years
- Exception for Westchester acknowledges existence of commission

County Real Property Director

§1532 Real Property Tax Law

20

Extensive Duties – e.g.

- Maintain Tax maps
- Advisory appraisals
- Expert witness
- Advise assessors
- Training
- Provide Equalization information
- County Reval. Coordination
- Other related duties as specified by legislature

Ulster County Charter- Reliance on State Law

21

- § C-75. Director of Real Property Tax Service.

There shall be a Real Property Tax Service Agency under the direction of a Director of Real Property Tax Service, who shall be appointed by the County Executive subject to confirmation by the County Legislature and shall serve at his or her pleasure. At the time of his or her appointment, and throughout his or her term of office, he or she shall possess such qualifications as may be required by law, and he or she shall be appointed on the basis of his or her administrative experience and other qualifications for the responsibilities of this office, except that if the Director of Real Property Tax Service is appointed for a fixed term of years pursuant to a provision of state law, he or she may only be removed for cause, after written notice of charges and an opportunity to be heard.

- § C-76. Agency powers and duties.

The Real Property Tax Service Agency shall:

- A. Have all the powers and perform all the duties conferred or imposed by law upon the County regarding the extension of real estate taxes, the issuance of tax bills, the maintenance of County assessment records, the submission to the County Executive of tax equalization rates and the rendering of assistance to assessors throughout the County in the performance of their responsibilities;
- B. Prepare tax maps for the use of the assessor of all the assessing units in the County; on such maps shall be shown each separately assessed parcel of real property with its boundaries properly marked, pursuant to the Real Property Tax Law; and
- C. Perform such other and related duties required by the County Executive or County Legislature.

Executive Director of the Tax Commission

22

- **Section 122.11, 122.21**

- Examine the assessment rolls for state and county taxes of the several tax districts in the county for the purpose of ascertaining whether valuations in one tax district bear a just relation to the valuation in all the tax districts in the county.
- 2. Examine the assessment rolls of the several cities in the county, for the purpose of ascertaining if real estate is assessed at a higher or lower valuation for state and county taxes than it is for city taxes.
- 3. Make a study and survey of the mode of assessment employed in determining the value of real property for such purpose.
- 4. Confer with and inform local assessors as to their duties in respect to the valuation of real property for tax purposes.
- 5. Adopt and administer a uniform criteria of assessment procedures.

- **Section 122.21**

- 1. Provide upon request advisory appraisals to cities and towns as required by Section 1536 of the New York State Real Property Tax Law.
- 2. Advise the assessors on procedures for the preparation and maintenance of assessment rolls, property record cards, appraisal cards and other records and documents relating to real property assessment and taxation.
- 3. Cooperate and assist in the training programs provided by the State Board of Equalization and Assessment.
- 4. Provide coordination of all assessment improvement programs, on a request basis.

Executive Director Tax Commission - Powers

23

- **Section 122.51**

- “In order to accomplish such uniform standards, as required by subsection 122.11 5. of this article, the Executive Director shall:
 - ✦ “serve upon the Assessor or the Board of Assessors of each city, town and village in the county a copy of such standards...”
 - ✦ “visit each city, town and village in the county to determine whether or not such uniform standards are being employed”
 - ✦ (with the Tax Commission) “hold hearings in any such city, town or village upon written or printed notice”
 - ✦ “In case the assessors in any city, town or village shall fail or refuse to employ the uniform standards in the preparation of assessment rolls and that fact shall be established to the satisfaction of the Tax Commission, the Executive Director **may install such uniform standards therein** and the cost thereof shall be advanced by the county in the first instance and included in the next subsequent levy of county taxes against such city or town and in the event that it is a village that has failed to comply, the county may send a bill to such village for the services rendered therein.”

Executive Director – Tax Commission

Additional Duties

24

- Section 122.91- Convene an annual conference of assessors
- Section 122.101 File an annual report with information required by the executive and legislature

Tax Commission

25

- Section 122.41
 - 1. To hold public hearings at convenient points throughout the county... **to advise the Executive Director .**
 - 2. A **review board ...** [on local request]... of any standards and procedures established by the Executive Director, with power to support, overrule or modify (with consent of parties). “Such review and determination by the commission is a required administrative procedure prior to the commencement of a court action and is binding upon the Executive Director.”
 - 3. A **review board** to hear “...presentations by the Executive Director with regard to the failure or refusal of any city, town or village to implement uniform standards and procedures consistent with the New York State Real Property Tax Law and to make a determination based upon all of the evidence. The determination may order that the city, town or village immediately install uniform standards and procedures and upon failure so to do may direct the Executive Director to do so and to charge the cost thereof to the offending city, town or village.”

Tax Commission Equalization

26

- **Section 122.61**
 - “The commission shall adopt the latest available state equalization rates for the purpose of ascertaining the valuation of property in each tax district. After adopting the latest available state equalization rate the commission shall determine the full valuation of all property in the county. Thereafter the commission shall determine the percentage of total tax to be paid by each tax district.”

County Assessment Without Charter Change – the NY CAP Program

27

- **Municipalities within a county may enter into an agreement with the county to provide them assessing services. (Villages or assessing units with elected assessors may not enter such an agreement.) The state requires that assessment be on a “uniform percentage of value” within each assessing unit. Jurisdictions that enter a CAP must agree to maintain the same uniform percentage of value and equalization rate as each other over the term of the agreement.**

County Assessment Without Charter Change – Alternative Division of Labor

28

- **For example, in Essex County:**
 - Assessment support including land schedules, trends, neighborhoods, cost and comp values, models and other valuation help
 - Work with the assessor to make sure that inventory data is current
 - clerical support for all 18 towns by way of address changes, putting exemptions on the roll after they are approved by the assessors, inputting deed information for sales, entering new assessed values, printing assessment rolls and reports.
 - Entry of all re-levies of taxes that have not been paid to towns, villages and schools.
 - Payment of license fees for all towns for the RPSV4 system that is used for valuation as it is housed at the county level.
 - Mailings for the assessors such as notice of increase/decreases in assessed value. We print, fold, stuff the envelopes and mail them.
- ❖ Note: County costs in Essex are offset by a 60 cent per parcel charge-back to towns (for a total of \$41,700) for some roll maintenance and printing expenses.

County Assessment Without Charter Change – Towns Contract with County

29

- **In Schuyler County, the eight towns contract with the county for assessment services. The county employs two assessors who assess all its 13,400 parcels. The county is committed under contract to maintain all roles at 100% of value. For this service it currently charges the towns \$13/parcel.**

Questions?

30



Intergovernmental Relations



Westchester Charter Commission – Intergovernmental Relations

1

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Intergovernmental Collaboration: A NYS Constitutional Principle

2

“IX.1. (c) Local governments shall have power to agree, as authorized by act of the legislature, with the federal government, a state or one or more other governments within or without the state, to provide cooperatively, jointly or by contract any facility, service, activity or undertaking which each participating local government has the power to provide separately. Each such local government shall have power to apportion its share of the cost thereof upon such portion of its area as may be authorized by act of the legislature.”

Intergovernmental Relations: Westchester

3

- No intergovernmental structure
- §104.21 g. & h. Charter limits county government’s power regarding “any provision of law relating to the property, affairs or government” of any city or village “within the territory of such county”
- §194.171. Intergovernmental contracting: “Any two or more units of government within the county, among which the county itself may but need not be included, may, by action of their governing bodies, enter into contracts for the joint operation or transfer of any of their governmental functions. Such contracts shall be for a definite term not exceeding four years.”
- Some provisions regarding specific functions – e.g. property tax administration

Acting Together Within County— Reiteration of the State Constitution

4

- **E.g. Rensselaer County § 19.01 Contracts for Municipal Corporations**
 - “The County of Rensselaer shall have power to contract with any public corporation, including but not limited to a municipal, district, or public benefit corporation or with any combination of the same for establishment, maintenance, and operation of any facility and the rendering of any service which each of the contracting parties would have legal authority to establish, maintain, operate, or render for itself. Each of such contracting parties shall bear a fair proportionate share of the costs as agreed upon.”

Acting Together Across Counties – Suffolk and Nassau

5

- **§ 1083-2 Intermunicipal agreement.**
 - “The Suffolk County Executive is hereby empowered and authorized to enter into an intermunicipal agreement with Nassau County, which agreement sets forth the terms and conditions under which the Council will operate, such agreement to be consistent with the terms of this chapter.”

Charter Adoption Does Not Transfer Functions

6

- E.g. Schenectady County. Article XX. §20.00. Local government functions, facilities and powers not transferred, altered or impaired.
 - “No function, facility, duty or power of any city, town, village, school district or other district is transferred, altered or impaired by this charter or the administrative code.”

Charter Based Intergovernmental Collaboration Council – Ulster County

7

- § C-116 Intermunicipal Collaboration Council.
 - A. There shall be a **nine-member** Intermunicipal Collaboration Council established whose purpose is to advance communication, coordination and collaboration among the local governments in Ulster County so as to achieve greater economy, efficiency, equity, effectiveness and responsiveness of public service.
 - B. Membership of the Intermunicipal Collaboration Council shall include the County Executive, the Chairman of the Ulster County Legislature, the majority leader of the Ulster County Legislature or his or her respective designee, the minority leader of the Ulster County Legislature or his or her respective designee, the Mayor of the City of Kingston or his or her respective designee, a representative of the Ulster County Board of Cooperative Educational Services (BOCES), one community member, appointed by the County Executive, and two representatives of the Ulster County Town Supervisors' Association to be selected by the Association. Any designee appointed by the majority or minority leader pursuant to this subsection shall be a member of the Legislature. Any designee appointed by the Mayor of the City of Kingston pursuant to this subsection shall be a duly elected official. Designations shall be in writing and filed with the Clerk of the Legislature.
 - C. The Council shall meet at the call of the County Executive, but no fewer than two times annually, to consider matters or issues that might be brought before it by any member and to take initiatives designed to advance its objectives.

Ulster County – Experience

8

- Provision has little force
- Too dependent upon county initiative
- Not exploited by county localities
- Not located in a department of county government; not staffed

Councils/Associations of Governments

9

- Not charter based
 - Multi-county Regional Councils
 - Informal structures, practices (Westchester)
 - Councils of Governments (COGs)

Regional Planning Councils: Authority/Influence

10

- Based in state law – General Municipal Law – 12-B
- Created by Local Action (Now 9 agencies, covering 45 counties)
- Consultative and advisory
- Flexible statutory authority has allowed development of very different levels of authority and influence throughout the state in a range of policy areas http://www.cdrpc.org/NYSARC_4-4-06_Final_Report.pdf

Westchester Municipal Officials Assn.

11

- “The Westchester Municipal Officials Association (WMOA) is an organization of, and for, the 45 cities, villages and towns in Westchester County. Since 1938, WMOA has united local government officials in an active countywide network. The WMOA provides a forum for its member municipalities to study issues of mutual concern and to take action on such issues that will have a beneficial effect upon the public safety, health and welfare of its members’ citizenry.”
- Council of Governments. Proposed by 1988 Westchester Charter Revision process.

Councils of Governments

12

- Greater Binghamton
- Monroe County
- North Shore
- Northern Oneida County
- Salmon Rivers
- Tompkins County
- Schuyler County

Northern Oneida – Towns and Villages

13

- “The Northern Oneida County Council of Governments is a coalition of nineteen towns and villages in the Northern half of Oneida County, New York. Situated at the southern side of the Tug Hill Plateau, NOCCOG provides an outreach of technical and planning assistance to these, for the most part, smaller and more rural communities of the county.”
- Budget – circa \$100,000
- Member governments pay dues
- County support curtailed. Some reliance on Tug Hill Commission

Monroe County – Includes School Districts

14

- “The Monroe County Council of Governments (COG) is a **voluntary** organization of municipal governments, which is comprised of the Monroe County Executive, the City of Rochester Mayor, town supervisors and village mayors, a representative designated by the Board of the Monroe County Council of School Superintendents from among the Council’s membership; and a representative designated by the Board of the Monroe County School Boards Association from among the Association’s membership. The Council provides **a forum for intergovernmental cooperation** on issues of common concern to governments in Monroe County. The goal of the Monroe County Council of Governments is to examine opportunities for further intergovernmental cooperative actions and provide cost-effective governmental services.”

○ Presented on County Planning Website

Tompkins County – County, Towns and Villages

15

- “an association of local governments organized to provide **a forum** for discussion and negotiation leading to agreements for more efficient and fiscally responsible delivery of government services. The goals include: expanding cooperation among taxing entities and resolving duplication of services, improving communication among local governments in Tompkins County and improving involvement with School Districts.”
- In-kind county support

Schuyler County – County, Towns, Villages and SD's

16

- Formed in 2005
- Includes the chief elected officials from each of the 12 towns and villages, the chief school officers from the two school districts, and representatives of the county legislature (two).
- “...to provide a forum for discussion and negotiation leading to agreements for increased efficiency, fiscal responsibility, and improved quality of government services.”
- Dues supported – county pays half

Greater Binghamton – Includes Non-governmental Members

17




- **Purpose** - “The Greater Binghamton Council of Governments is an association of municipal governments organized to provide a forum for discussion and negotiation leading to agreement for more efficient and fiscally responsible delivery of government services, and consolidation of local governments in Broome County, New York.”
- **Membership** - There are **27 Constituent Members** consisting of the chief elected official from each city (1), town (16), and village (7), the Broome County Executive, the Chair of the Broome County Legislature, and one at-large member of the Broome County Legislature.
- There are **4 Associate Members** consisting of the superintendent of Broome-Tioga BOCES, an elected member of a Broome County area school board, and two representatives chosen by the Greater Binghamton Coalition.
- Supported by County Planning Department

Salmon River – 5 Towns and 1 Village

18

- “The Salmon Rivers Council of Governments is a cooperative efforts between the towns and villages in the northeastern part of Oswego County. The towns and villages work together on projects of common interest, and share information and experience. These include economic development and tourism, and water and sewer development.”
- North Shore Council is similar


Ethics



Westchester Charter Commission – Ethics

1

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JUNE 6, 2013**



WESTCHESTER COUNTY, NEW YORK

State Law Requires Localities to Adopt a Code of Ethics

2

- General Municipal Law Article 18 § 806. Code of ethics.
“1. (a) The governing body of each county, city, town, village, school district and fire district shall and the governing body of any other municipality may by local law, ordinance or resolution adopt a code of ethics setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them....
- Codes of ethics shall provide standards for officers and employees with respect to disclosure of interest in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment and such other standards relating to the conduct of officers and employees as may be deemed advisable.
- Such codes may regulate or prescribe conduct which is not expressly prohibited by this article but may not authorize conduct otherwise prohibited.
- Such codes may provide for the prohibition of conduct or disclosure of information and the classification of employees or officers.”

Purpose of an Ethics Law

3

- “The purpose of government ethics laws lies in promoting both the reality and the perception of integrity in government by preventing unethical conduct (conflicts of interest violations) before they occur. A number of principles undergird this purpose....:”
 - “Promotes not only the reality but also the perception of integrity in government...”
 - “Focuses on prevention, not punishment...”
 - “Recognizes the inherent honesty of public officials...;”
 - “Seeks thus to guide those honest officials, not imprison dishonest ones...;”
 - “Is, therefore, not intended to (and will not) catch crooks...;” and
 - “Ensures that the public has a stake in the ethics system.”

Mark Davies. “New York State Wiffs on Ethics Reform” 5 *Albany Government Law Review* 710 (2012).

Three Key elements

4

- **Precepts – Affirmative values**
 - **Rules – A Code of Ethics**
 - **Administration - The Board**
- Note: This presentation focuses on the Administrative question

The Code, Disclosure and Enforcement

5

- **An Ethics Code**
- **Disclosure**
- **Independent Committee to interpret and enforce**
 - qualified, volunteer commission members of high integrity
 - with fixed terms
 - removable only for cause
 - who hold no other government positions
 - are parties to no government contracts
 - engage in no lobbying of the government, and
 - do not appear before the government in a representative capacity. (Davies, 2012, p. 719)

The Commission – Davies Recommendations

6

- Size – 5 (danger: factions vs. missed quorum)
- Appointing authority - executive with advice and to avoid factions and leaks
- Authority – final arbiter, subject to court review
- Four duties:
 - legal advice,
 - ethics training,
 - administration of disclosure, and
 - enforcement.

The Board – Other Counties Size, term, membership, balance

7

- Size – 3,5,7 (Erie 5 + 1 non-voting officer or employee)
- Term length – 3, 5 years
- Partisan balance or no single party control commonly required
- Members – varying degrees of limitation
 - majority not elected officials, one may/must be;
 - one may be an appointed official, no electeds;
 - no electeds, candidates, party officials, lobbyists, persons with business interest with county

The Board – Other N.Y. Counties

Appointing authority

8

- Executive – common practice (with legislative confirmation)*
- Legislature – Tompkins county
- Legislative chair – Albany (recommended by majority and minority leaders)
- Multiple - Executive, legislative chair, majority and minority leader – Orange and Suffolk

*In Nassau, for 3/5 of appointees only

The Model County Charter

9

§7.01 (b) Board of Ethics.

- The county council shall, by ordinance, establish an independent board of ethics to administer and enforce the conflict of interest and financial disclosure ordinances.
- No member of the board may hold elective or appointive office under the county or any other government or hold any political party office.
- Insofar as possible under state law, the county council shall authorize the board to issue binding advisory opinions, conduct investigations on its own initiative and on referral or complaint, refer cases for prosecution, impose administrative fines, and to hire independent counsel.
- The county council shall appropriate sufficient funds to the board of ethics to enable it to perform the duties assigned to it.

Board of Ethics

§192.11, 12 Westchester Charter

10

- Seven members, 3 year fix term, chair designated by the County Executive
- Appointed by the County Executive subject to the confirmation of the County Board,
- A majority of whom shall not be officers or employees of the county or municipalities wholly or partially located in the county and at least one of whom shall be an elected or appointed officer or employee of the county or a municipality located within the county.
- No more than four members of such board shall be of the same political registration.

Charter §192.31 Board Powers

11

- Administer Article 18 of the General Municipal Law and Chapter 883 of the Laws of Westchester County,
- “....impose fines and penalties and shall render advisory opinions as to the conduct of all officers and employees of the county...”
- “...[M]ake recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon request of the governing body of any municipality in the county.”

Charter §192.41 Additional Powers

12

- “[R]epository for completed financial disclosure forms...;”
- “...Conduct any investigation necessary.... Pursuant to this power and duty, the board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material;
- “...Render determinations, as necessary, regarding any potential non-compliance ...and potential conflicts of interest, including those identified by the Independent Consultant...
- “...Verify and ensure that all individuals required to file financial disclosure forms... file such financial disclosure forms, and that said forms are fully completed. This duty shall be discharged by an Independent Consultant and the County Board of Ethics...
- “Ensure the training of all County officers and employees regarding the Code of Ethics and emerging ethics issues on an annual basis.”

Independent consultant

13




- Created by local law after general review of local ethics laws and enforcement by NYS Comptroller in 2011
<https://osc.state.ny.us/localgov/audits/swr/2010/ethics/ethicoversight.pdf>
- Retained by Board
- Reviews filings for potential conflict, non-compliance
- Recommends further Board review

Questions?


14





Executive Succession



Westchester Charter Commission – Executive Succession



**GERALD BENJAMIN – DIRECTOR
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CRREO
JUNE 6, 2013**



WESTCHESTER COUNTY, NEW YORK

8/27/2013

Executive – Removal Westchester

2

- §110.41. “The County Executive may be removed from office by the Governor for cause after being given a copy of the charges against him and an opportunity to be heard in his own defense.”
 - Note: Most Charters have similar provisions for removal

Vacancy in the Executive - Westchester

3

With less than 9 months remaining in the term

- County board specifies department head or other qualified elector to serve, but not a board member.
- Pending board action, Board Chair specifies a department head

With 9 months or more remaining in the term

- Special election
- Not more than 90 days from occurrence of vacancy

Vacancy in the Executive – Westchester Continued: Charter Provisions

4

With less than 9 months remaining in the term

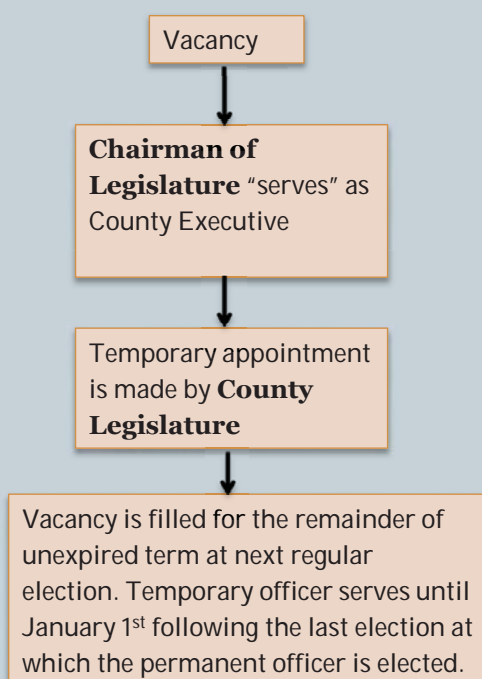
- §110.51-2. "No special election, may be called for the office of the County Executive where a vacancy occurs in said office less than nine months before the regular expiration of such term of office. In such event, the County Board shall designate the head of one of the county departments, or any qualified elector of the county, other than a member of such board, **to serve** as a County Executive. Pending the designation by the County Board of a County Executive and his subsequent qualification, the chairman of the board shall designate the head of one of the county departments as **an Acting** County Executive."

With 9 months or more remaining in the term

- §110.51-1. "If a vacancy occurs in the office of County Executive, prior to nine months before the regular expiration of such term of office ... it shall be filled for the remainder of the unexpired term by a **special election** to be called by the County Board as soon as practicable, and in any event, to be held no later than 90 days from the date of such vacancy. Pending such special election and certification of the results thereof, the County Board shall designate the head of one of the county departments, or any qualified elector of the county, other than a member of such board, **to serve** as County Executive. Pending the designation by the County Board of a County Executive and his subsequent qualification, the chairman of the board shall designate the head of one of the county departments as an **acting** County Executive."

Legislature Fills Vacancy in the Executive Until Next Scheduled Election— Albany County

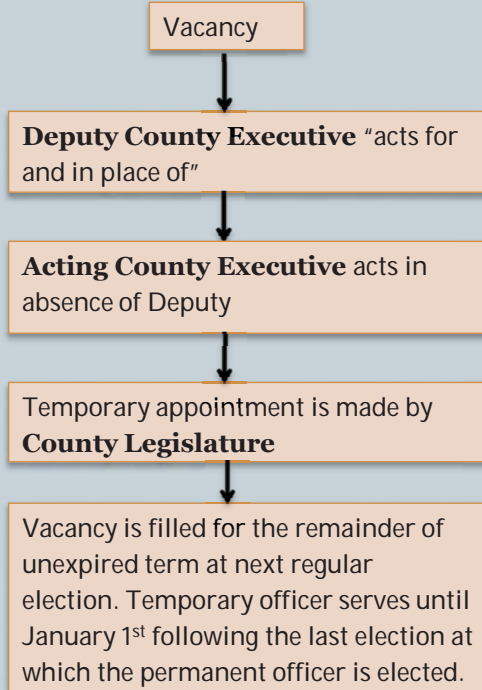
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- § 303. "A vacancy, other than one occurring by expiration of a term in the office of County Executive, shall be **filled by appointment** of a qualified elector of the County by the County Legislature within 45 days from the time the vacancy occurs. The appointee shall hold office by virtue of her appointment until the January 1st following the next general election, at which election a County Executive shall be elected for the balance of the unexpired term, if any."
- § 306. "The Chairperson shall be the **acting** County Executive and perform the duties of the County Executive when the County Executive is unable to perform for reasons other than absence from the County, temporary disability, or when a vacancy occurs in the office of the County Executive. The acting County Executive shall serve until the vacancy is filled pursuant to this Charter."

Executive Appoints Deputy and Acting County Executives Until Next Scheduled Election

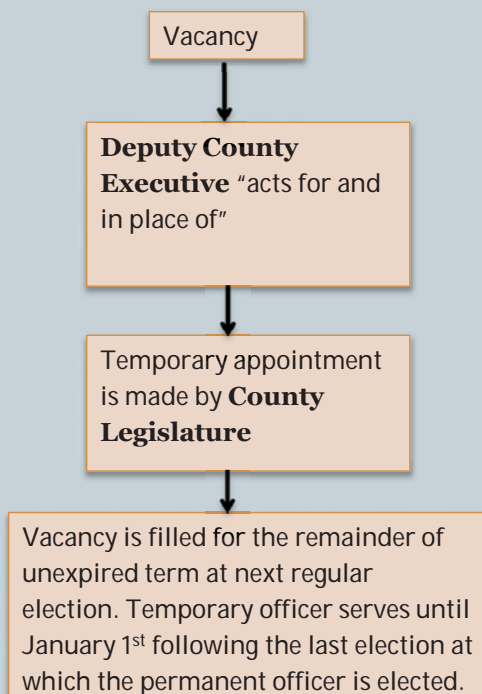
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- § 304. "The County Executive may appoint a Deputy County Executive subject to confirmation by the County Legislature by majority vote who shall hold office at the pleasure of the County Executive ... [H]e shall also **perform the duties of the County Executive** during the latter's temporary inability to perform by reason of absence from the County or disability."
- § 305. "The Acting County Executive shall **perform the duties** of the County Executive:
- (1) if a Deputy County Executive has not been appointed pursuant to Section 304 herein and the County Executive is unable to perform his duties by reason of absence from the County or disability; or
- (2) if a Deputy County Executive has been appointed pursuant to Section 304 herein and both the County Executive and Deputy County Executive are unable to perform their duties by reason of absence from the County or disability. In the event that no Acting County Executive has been designated, the County Legislature shall designate an appointive department or executive division head to perform the duties of the office of the County Executive as provided hereinabove."
- Note: Broome County has a similar charter provision

Deputy Acts – Legislature Fills Vacancy until next scheduled election – partisan continuity

7

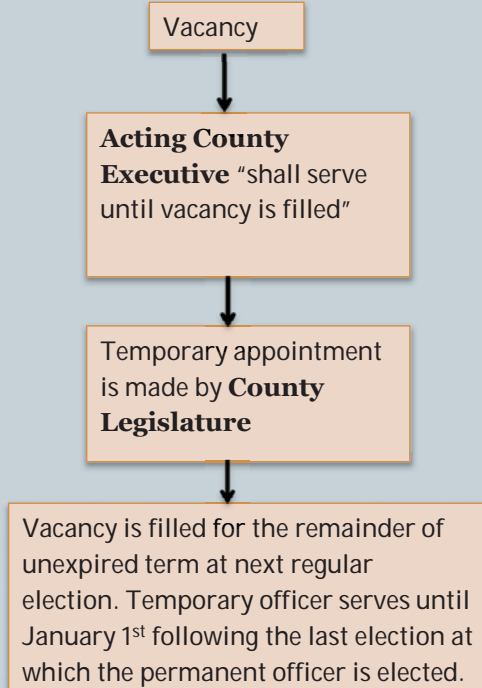


- § C3-4. "In the event that the office of County Executive becomes vacant, the Deputy County Executive shall act as the County Executive until the vacancy is filled."
- § C3-6.C. "The County Legislature shall fill a vacancy in the office of County Executive by appointing, by majority vote of the whole body, a qualified elector of the County who is **registered in the same political party** as the person who vacated the office."
- § C3-6.D. "Any person filling a vacancy as set forth in Subsection C of this section shall hold office until the first day of January following the first annual election held after the vacancy for which nominating petitions can be filed pursuant to the State Election Law, at which election a successor shall be elected either for the remainder of the unexpired term, if any, or for a full term of four years, whichever the case may be."

Monroe County

Acting Serves -legislature appoints – partisan continuity – until next scheduled election

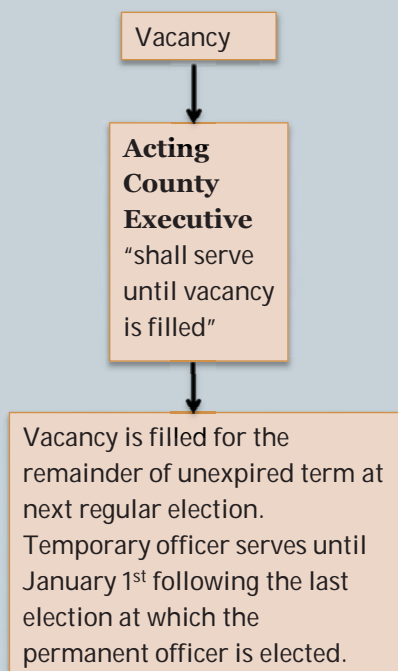
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- § 304. "If a vacancy occurs in the office of the County Executive, the designated acting County Executive shall serve until the vacancy is filled pursuant to this charter."
- § 2205. "A vacancy, otherwise than by expiration of term in the office of County Executive, shall be filled by appointment by the Board of County Legislators of a qualified elector of the county, having the same political affiliation as the person last elected to such office. The person so appointed shall hold office by virtue of such appointment until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, at which election a County Executive shall be elected for the balance of the unexpired term, if any." – Oneida County Charter
 - Note: Onondaga, Orange, Putnam, and Rockland have similar provisions

Acting assumes powers until next scheduled election – No Legislative role

9



- § 3.07. "In the event of a vacancy in the office of the County Executive as described in Section 30 of the Public Officers Law, the Acting County **Executive shall succeed to the office of County Executive**, and shall have all of the powers and perform all of the duties of that office. He shall hold the office of County Executive until the commencement of the calendar year next following the first annual election held not less than sixty (60) days after the occurrence of such vacancy, at which annual election a County Executive shall be elected from the County at large for the balance of the unexpired term."
- Note: Chautauqua, Rensselaer, and Suffolk have similar provisions

Temporary Absence or Disability - Westchester

10

Absence or temporary disability occurs

Deputy County Executive-serves as "acting" to perform "admin. duties" except "removal"

Acting County Executive
(Department head designated by County Executive in writing upon taking office, or by Legislative Chair, from specified list)

- § 110.51. "During the absence or disability of the County Executive, the Deputy County Executive shall serve as acting County Executive to **perform the administrative duties** of the County Executive. The County Executive shall designate in writing any one of the following: Budget Director, Commissioner of Finance, Commissioner of Planning, Commissioner of Public Works and Transportation, Commissioner of Parks, Recreation and Conservation, Commissioner of Social Services, Commissioner of Health, County Attorney, or Commissioner of Human Resources, as an acting County Executive to perform the administrative duties of the County Executive during the absence or disability of the County Executive and Deputy County Executive." - Westchester County Charter
 - Note: Broome, Chemung, and Dutchess, Counties have similar provisions.

Temporary Absence or Disability – Most Other Charter Counties

11

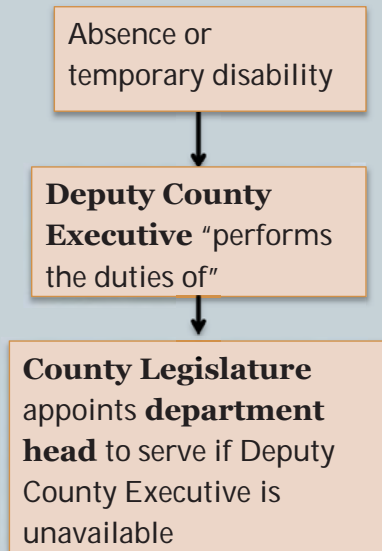
Absence or temporary disability

Acting County Executive (appointed by County Executive upon taking office or by Legislature in the event that the Executive fails to make appointment)

- § 3.04. "The County Executive shall designate an appointive officer of the Executive Branch to be known as the Acting County Executive to **perform the duties** of such Executive during the Executive's absence from the county or the Executive's inability to act for any reason." – Chautauqua County Charter
 - Note: Oneida, Onondaga, Orange, Putnam, Rockland, Schenectady (manager), Suffolk, Sullivan (manager), Tompkins (administrator), and Ulster Counties have similar provisions.

Temporary Absence or Disability – Erie County

12

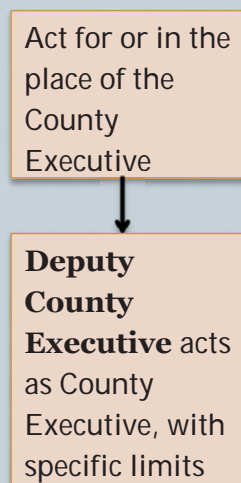


- § 304. "The deputy county executive shall be first in the order of succession and shall perform the duties of the county executive during the latter's absence... In the event that no deputy county executive has been appointed or is able to serve, the legislature shall designate an appointive department or executive division head to perform the duties of the office during the inability of the county executive to perform by reason of absence from the county or disability." – Erie County charter

○ Note: Rensselaer County has a similar provision.

"For or in the place of" the Executive – Albany County

13



- § 305. "The County Executive may appoint a Deputy County Executive, to serve at her pleasure. The Deputy County Executive shall act for and in place of the County Executive, except that a Deputy County Executive **may not exercise the power of appointment, discharge or veto.**" – Albany County Charter

○ Note: Monroe County has a similar provision.

Nassau County – Legislative role

14

Absence or temporary disability



Deputy County Executives



Presiding Officer of Legislature "performs such administrative duties"

- § 205. "During the absence or disability of the County Executive and the Deputy County Executives so designated, the Presiding Officer of the County Legislature may perform such administrative duties." – Nassau County Charter

Time Limits

15

Time limits are used to avoid lapse in service, assure timely succession, define period of "acting service," and/or relate term of service to electoral cycle

- § 303. "A vacancy, other than one occurring by expiration of a term in the office of County Executive, shall be filled by appointment of a qualified elector of the County by the County Legislature **within 45** days from the time the vacancy occurs." – Albany County Charter
- § C3.05 – "The appointment shall be made within **thirty days** after the vacancy occurs." – Rockland County Charter

Failure to Act

16

Executive Failure to Designate Successor

- § C306. "In the event that no acting County Executive has been designated [by the County Executive], the County Legislature may designate an appointive department head or executive head to perform the duties of the County Executive as provided hereinabove." — Broome County Charter
 - Note: Most Counties have similar provisions

Legislative Failure to Make Temporary Appointment

- § C2.03. "Vacancies which occur on the County Legislature shall be filled by appointment by the Legislature of Rockland County from among qualified electors of the legislative district from which the vacancy occurred... If the appointment is not made within said thirty days, a **special election** shall be conducted to fill the vacancy within ninety days after the vacancy; provided, however, that if there shall be a general election within one hundred twenty days after said vacancy occurs, the vacancy shall be filled at the general election." — Rockland County Charter

Temporary Executive Absence or Disability – Westchester: Initiation and Termination

17

- Not specified
- §110.51 applies to succession list: " Such written designation shall be filed with the County Clerk and may be terminated and superseded at any time by the County Executive by written notice of such termination and supersession filed in the same manner as the original written designation.
 - Note: Most Charters have similar Initiation and Termination provisions for the designation of successors

Executive – Temporary Disability

18

- How determined?
 - Executive declaration
 - ✦ Ulster County Charter . § C-29. He or she “certifies in writing and files with the County Clerk a statement that he or she is unable to perform and/or exercise the powers and duties of the office of County Executive”
 - Action of another official or body
 - ✦ Ulster County: “...upon advice sought by a majority or the whole number of members elected to the Ulster County Legislature by form action not subject to veto by the County Executive, his or her inability to serve is certified by a qualified and competent medical authority.”
- How terminated?
 - Executive declaration
 - ✦ Ulster County. “At any time during the remainder of the term for which he or she was elected, a person elected as County Executive may file a retraction in writing with the County Clerk of his or her earlier statement of inability to perform and/or exercise the duties of the office and immediately resume service in that office.
 - Action of another official or body
 - ✦ Ulster County. “At any time during the remainder of the term for which a County Executive was elected, after he or she was found unable to perform and/or exercise the duties of the office by competent medical authority, that authority may file a retraction in writing with the County Clerk, and thereafter the County Executive may immediately resume service in that office.”

Extent of and Limitation on Successor's Powers - Appointment, Discharge, Veto

19

- § C-29. “The Acting County Executive shall have all the powers and perform all the duties of the County Executive” – Ulster County Charter
 - Note: Many Charter Counties have similar provisions for Deputy and Acting County Executives
- § 305. “The Deputy County Executive shall act for and in place of the County Executive, except that a Deputy County Executive **may not exercise the power of appointment, discharge or veto.**” – Albany County Charter
- § 3.03. “The Acting County Executive shall have and exercise all of the powers of the County Executive **except the power of removal and the power of veto of acts of the County Legislature.**” – Orange County Charter
- § C3.03. “The Acting County Executive shall have and exercise all of the powers of the County Executive, except that the **power of removal and the power of veto of acts of the County Legislature shall not be exercised by the Acting County Executive until the County Executive shall have been absent or disabled for fifteen days.**” – Rockland County Charter
- § 110.51. “The Acting County Executive shall have and exercise all of the powers of the County Executive **except the power of removal.**” – Westchester County charter

Special Qualifications

20

- Advice and Consent: § C-29. "Only persons incumbent in County government in positions subject to confirmation by the County Legislature may be designated to any list of succession for possible service as Acting County Executive." – Ulster County Charter
- Partisan Continuity: § 2905. "...shall be filled by appointment by the County Legislature of a qualified elector of the County having the same political affiliation as the person last elected to that office." – Chemung County Charter
 - Note: Broome, Erie, Monroe, Oneida Counties have similar provisions

Questions?

21



Filling Vacancies in Elective Offices



Westchester Charter Commission – Filling Vacancies in Elective Offices

2

GERALD BENJAMIN – DIRECTOR
CARLING DEVIN – RESEARCH ASSISTANT
CRREO
JUNE 6, 2013



Filling Vacancies: Why is this important?

3

- **Continuity of government**
- **Representation**
- **Political ambition, partisan control and incumbency**
- **Scale**
 - 544,000 (est.) elected officials in the U.S.
 - 21,400 (est.) elected officials in NYS
 - 500 (est.) elected officials in Westchester

A Timely Example

4

- **New Jersey U.S. Senator Frank Lautenberg, a democrat, died this week.**
- **The U.S. Constitution gives the power to appoint his replacement to New Jersey's Governor Chris Christie, a republican.**
- **At stake:**
 - Christie's re-election and presidential ambitions
 - Immediate partisan balance in the U.S. Senate
 - Potential candidacies and outcome for Senate election to a full term.
 - Numerous national policy choices

How do vacancies arise?

5

- **Removal for cause**
- **Resignation**
- **Death**
 - 740.6 deaths in the U.S./100,000 in 2011 (CDC)
 - Direct application of rate to any sub-population problematic
 - Not improbable that in any year a Westchester public official will die in office

How Do Vacancies Arise? Forfeiture of Office

6

- **Model County Charter Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.**
- (a) **Vacancies.** The office of a council member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- (b) **Forfeiture of Office.** A council member shall forfeit that office if the council member
 - (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or by law,
 - (2) violates any express prohibition of this charter,
 - (3) is convicted of a crime involving moral turpitude, or
 - (4) fails to attend three consecutive regular meetings of the council without being excused by the council.

Appointment or election to fill vacancies?

7

- **Election**
 - Legitimacy
 - Democracy
- **Appointment**
 - Immediate
 - Automatic
 - Continuity of policy, program

Certainty and Uncertainty²

8

- **Certainty: Terms of office are fixed.**
- **Uncertainty: The electoral cycle in New York is variable.**
- **Uncertainty: Timing of vacancies is (often) unpredictable.**

The combined effect makes drafting complex.

Succession – Timing and the “Political Cascade”

9

- Discretionary vacancy timed to assure appointment to fill
- Appointment creates incumbency, and election advantage
- Appointment vacates another elective office
- Appointment creates incumbency....
- ...and so on...

Elected Executive Vacancy – Succession

10

- Continuity in government
- Specification of chain of succession
 - Executive and Legislative roles
 - Time limits for action and default options
 - Separation of powers
- Limiting criteria for inclusion
 - Position in government
 - Residence
 - Appointed or elected
 - Partisan continuity
 - Previously subject to advice and consent
- Length of Service
 - Duration of term
 - Next general election
 - Until special election may be scheduled

A combined approach

11

1. To assure continuity - Automatic succession by an incumbent office holder previously specified by the executive to “act as,” for a time or until some action is taken
2. Temporary – To “perform duties” for a time, usually until an election may be held.
3. Permanent – As a result of election, special or general, to fill remainder of term, or new term.

Vacancy in the Executive - Westchester

12

With less than 9 months remaining in the term

- County board specifies department head or other qualified elector **to serve**, but not a board member.
- Pending board action, Board Chair specifies a department head **to act**

With 9 months or more remaining in the term

- Special election
- Not more than 90 days from occurrence of vacancy

Vacancy in the Executive – Westchester Continued: Charter Provisions

13

With less than 9 months remaining in the term

- §110.51-2. “No special election, may be called for the office of the County Executive where a vacancy occurs in said office less than nine months before the regular expiration of such term of office. In such event, the County Board shall designate the head of one of the county departments, or any qualified elector of the county, other than a member of such board, **to serve** as a County Executive. Pending the designation by the County Board of a County Executive and his subsequent qualification, the chairman of the board shall designate the head of one of the county departments as **an Acting** County Executive.”

With 9 months or more remaining in the term

- §110.51-1. “If a vacancy occurs in the office of County Executive, prior to nine months before the regular expiration of such term of office ... it shall be filled for the remainder of the unexpired term by a **special election** to be called by the County Board as soon as practicable, and in any event, to be held no later than 90 days from the date of such vacancy. Pending such special election and certification of the results thereof, the County Board shall designate the head of one of the county departments, or any qualified elector of the county, other than a member of such board, **to serve** as County Executive. Pending the designation by the County Board of a County Executive and his subsequent qualification, the chairman of the board shall designate the head of one of the county departments as an **acting** County Executive.”

Vacancy in the Executive - Alternatives

14

Immediate

- Deputy Executive
 - “Act as”
- Chair of Legislature
 - “Serves”

Interim

- Acting “becomes” executive
- Chosen by Legislature
 - Same party required

Succession – Legislative Vacancies

15

- Continuity of government not an issue
- Appointing authority
 - Legislative body
 - De facto vs. de jure
- Nomination
 - Eligibility
 - Within district process
 - Partisan continuity requirement

Legislative Vacancy - Westchester

16

If vacancy occurs 7 months prior to end of term:

- § 107.11.a. “Whenever a vacancy in the office of County Legislator shall occur more than seven months prior to expiration of his or her term of office, such office shall be filled for the remainder of the unexpired term at a **special election** in the legislative district of said vacated office, to be called by the County Board as soon as practicable and, in any event, to be held no later than 90 days from the date of such vacancy.”

If vacancy occurs within 7 months of end of term:

- § 107.11.b. “Whenever a vacancy in the office of County Legislator occurs within seven months prior to expiration of his or her term of office, such vacancy may be filled by an **appointment** made by the remaining members of the board of an individual otherwise qualified to hold such office.”

Legislative Vacancies- Westchester Temporary Appointee - Restrictions

17

- 107.11.2.b “The appointee shall not be a candidate for any public office. In the event that the appointee becomes a candidate for a public office to be filled at an election to be held within the same calendar year as his or her appointment, the appointee will automatically forfeit the position of County Legislator.”

Legislative Vacancies Alternatives –

18

- **Suffolk County**
 - Special election within 90 days of occurrence of vacancy to fill remainder of term, unless general election is to be held within 90 days.
 - After general election, with incumbent not reelected, appt. w/i 30 days by legislature until newly elected member seated.
- **Tompkins County**
 - Special election if vacancy occurs before August 15, general election if after that date
 - If vacancy occurs on Sept. 20 or after in final year of term, general election winner fills out term. If not final year, special election for remainder of term.

Legislative Vacancies – Appointment until next scheduled election

19

Nomination

District party committee

Chautauqua

Appointment

Legislature

Many

Towns Board or Boards

Dutchess, Orange

Legislative Chair

Herkimer, Monroe

County Executive

Oneida, Onondoga

Note: Time limits of 30, 40, 45 days often specified

Temporary inability of the executive

20

- **Initiation**
 - The person temporarily unable to serve
 - An alternative process
- **How is it terminated?**
 - The person returning to service
 - Another process
- **Powers of the person temporarily serving**
 - “Acting as”
 - “Performing the duties of”
 - Specified limitations

Executive Absence

21

- Routinely included in provisions on inability
- Modern communication technology may remove this from the list of “problems” a charter must solve.
- Experience in some places at the state level suggests that mischief may arise if there is a provision for assumption of authority by an “acting executive” in the “absence” of the elected executive.

Temporary Absence or Disability - Westchester

22

Absence or temporary disability occurs

Deputy County Executive-serves as “acting” to perform “admin. duties” except “removal”

Acting County Executive
(Department head designated by County Executive in writing upon taking office, or by Legislative Chair, from specified list)

- § 110.51. “During the absence or disability of the County Executive, the Deputy County Executive shall serve as acting County Executive to **perform the administrative duties** of the County Executive. The County Executive shall designate in writing any one of the following: Budget Director, Commissioner of Finance, Commissioner of Planning, Commissioner of Public Works and Transportation, Commissioner of Parks, Recreation and Conservation, Commissioner of Social Services, Commissioner of Health, County Attorney, or Commissioner of Human Resources, as an acting County Executive to perform the administrative duties of the County Executive during the absence or disability of the County Executive and Deputy County Executive.” - Westchester County Charter

○ Note: Broome, Chemung, and Dutchess, Counties have similar provisions.

Temporary Executive Westchester – Limitation on Powers

23

- § 110.51. “The Acting County Executive shall have and exercise all of the powers of the County Executive **except the power of removal.**”

Temporary Absence or Disability – Most Other Charter Counties

24

Absence or
temporary
disability



Acting County Executive (appointed by County Executive upon taking office or by Legislature in the event that the Executive fails to make appointment)

- § 3.04. “The County Executive shall designate an appointive officer of the Executive Branch to be known as the Acting County Executive to **perform the duties** of such Executive during the Executive’s absence from the county or the Executive’s inability to act for any reason.” – Chautauqua County Charter
 - Note: Oneida, Onondaga, Orange, Putnam, Rockland, Schenectady (manager), Suffolk, Sullivan (manager), Tompkins (administrator), and Ulster Counties have similar provisions.

Failure to Act

25

Executive Failure to Designate Successor

- § C306. “In the event that no acting County Executive has been designated [by the County Executive], the County Legislature may designate an appointive department head or executive head to perform the duties of the County Executive as provided hereinabove.” – Broome County Charter
 - Note: Most Counties have similar provisions

Failure to Make Temporary Appointment to Legislature

- § C2.03. “Vacancies which occur on the County Legislature shall be filled by appointment by the Legislature of Rockland County from among qualified electors of the legislative district from which the vacancy occurred... If the appointment is not made within said thirty days, a **special election** shall be conducted to fill the vacancy within ninety days after the vacancy; provided, however, that if there shall be a general election within one hundred twenty days after said vacancy occurs, the vacancy shall be filled at the general election.” – Rockland County Charter

Special Provisions

26

- Advice and Consent: Only persons incumbent in County government in positions subject to confirmation by the County Legislature may be designated to any list of succession for possible service as Acting County Executive.
 - ✦ Ulster
- Restriction on Powers: Temporary Executive Appointee may not appoint, remove, or veto
 - ✦ Albany, Monroe
- Political consistency: Temporary appointment must be of same political affiliation as vacated officer
 - ✦ Broome, Chautauqua, Chemung, Erie, Herkimer, Monroe, and Oneida Counties

Determination and Termination of Temporary Disability

27

- **How determined?**

- **Executive declaration**

- ✦ Ulster County Charter . § C-29. He or she “certifies in writing and files with the County Clerk a statement that he or she is unable to perform and/or exercise the powers and duties of the office of County Executive”

- **Action of another official or body**

- ✦ Ulster County: “...upon advice sought by a majority or the whole number of members elected to the Ulster County Legislature by form action not subject to veto by the County Executive, his or her inability to serve is certified by a qualified and competent medical authority.”

- **How terminated?**

- **Executive declaration**

- ✦ Ulster County. “At any time during the remainder of the term for which he or she was elected, a person elected as County Executive may file a retraction in writing with the County Clerk of his or her earlier statement of inability to perform and/or exercise the duties of the office and immediately resume service in that office.

- **Action of another official or body**

- ✦ Ulster County. “At any time during the remainder of the term for which a County Executive was elected, after he or she was found unable to perform and/or exercise the duties of the office by competent medical authority, that authority may file a retraction in writing with the County Clerk, and thereafter the County Executive may immediately resume service in that office.”

Questions?

28



Filling Legislative Vacancies



Westchester Charter Commission – Filling Legislative Vacancies



**GERALD BENJAMIN – DIRECTOR
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JUNE 6, 2013**



Legislative Vacancy - Westchester

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If vacancy occurs 7 months prior to end of term:

- § 107.11.a. “Whenever a vacancy in the office of County Legislator shall occur more than seven months prior to expiration of his or her term of office, such office shall be filled for the remainder of the unexpired term at a **special election** in the legislative district of said vacated office, to be called by the County Board as soon as practicable and, in any event, to be held no later than 90 days from the date of such vacancy.”

If vacancy occurs within 7 months of end of term:

- § 107.11.b. “Whenever a vacancy in the office of County Legislator occurs within seven months prior to expiration of his or her term of office, such vacancy may be filled by an **appointment** made by the remaining members of the board of an individual otherwise qualified to hold such office.”

Legislative Vacancy – Tompkins County

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If the vacancy occurs before 8/15

- § C-2.04. “If a vacancy on the Tompkins County Legislature shall occur on or before August 15 of any year, such office shall be filled for the remainder of the unexpired term at a **special election in the district of said office.**”

If the vacancy occurs between 8/15 and 9/20

- § C-2.04. “In the event that such vacancy shall occur after August 15 but before September 20 of any year, such vacancy shall be **filled at the next general election.**”

Legislative Vacancy – Tompkins County (cont'd)

4

If the vacancy occurs on or after 9/20, but not in the last year of term:

- § C-2.04. “If a vacancy occurs September 20 or later in a year which is not the last year of the expiration of the Legislator's term of office, such office shall be filled for the remainder of the unexpired term at a **special election in the district of said office.**”

If the vacancy occurs on or after 9/20 in the last year of term:

- § C-2.04. “In the event that a vacancy occurs September 20 or later in a year which is the last year of the Legislator's elected term, the **winner of the general election for said office shall fill the vacancy for the remainder of the unexpired term.**”

Legislative Vacancy – Suffolk County

5

If vacancy occurs more than 90 days before next general election:

- § C2-6. “A vacancy in the office of a County Legislator, other than by expiration of the term, shall be filled by **special election** to be held within 90 days of such vacancy in the legislative district of said vacated office, and the person so elected shall serve for the balance of the unexpired term.”

If vacancy occurs within 90 days of next general election:

- § C2-6.A. “Where said vacancy may be filled by **general election** to be held no more than 90 days after the vacancy occurs, and the person so elected shall serve for the balance of the unexpired term.”

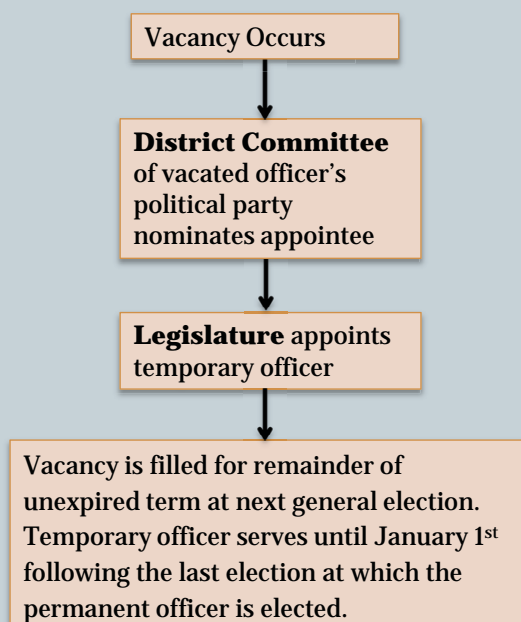
Legislative Vacancy – Suffolk County (cont'd)

6

- If the vacancy occurs after a general election, and the incumbent has not been reelected:
 - § C2-6.B. “Where said vacancy occurs after a general election, in the office of an incumbent who has not been reelected, the Legislature shall fill the office within 30 days of the vacancy by appointment of a resident of the district who qualifies under § C2-4 to hold office as a County Legislator, who shall serve until and including the 31st day of December next succeeding the vacancy.”

Legislative Succession – Chautauqua County

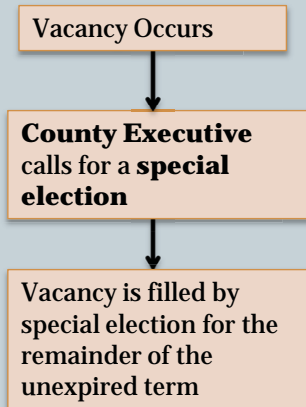
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- § 2.03. “A vacancy in the County Legislature shall be filled by the County Legislature... The appointee shall serve until the commencement of the political year next succeeding the first general election after the happening of the vacancy at which a successor may be elected, and the vacancy shall be filled at such election for the unexpired term. Any person appointed to fill a vacancy shall be a member of the same political party as the person who vacated the office and shall be nominated by the district committee of said party.”

Legislative Vacancy – Nassau County

8



- §108. “Any vacancy in the office of county legislator shall be filled by a special election in the county legislative district from which such legislator was elected, called by the County Executive”

Nassau County: Exceptions

9

If vacancy occurs after 5/1 in a legislative general election year:

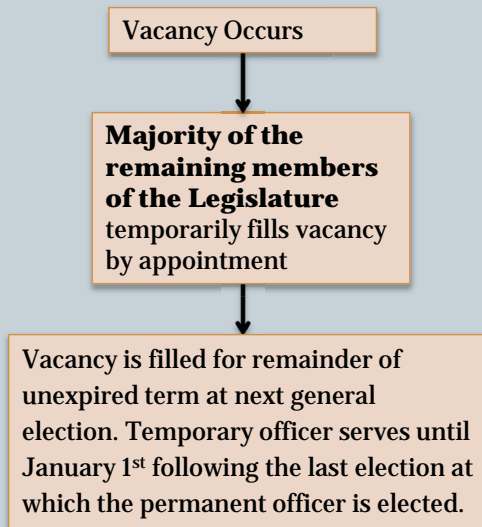
- §108. “[P]rovided that no such special election shall be required to be held if such vacancy shall occur after the first day of May in any year in which the vacancy could be filled at the general election to be held in November of such year.”

If vacancy occurs after 6/1 in last year of legislator’s term:

- §108. “[P]rovided further that no such special election shall be held if such vacancy shall occur after the first day of June in the last year of the county legislator's term.”

Legislative Vacancy – Other Charter Counties

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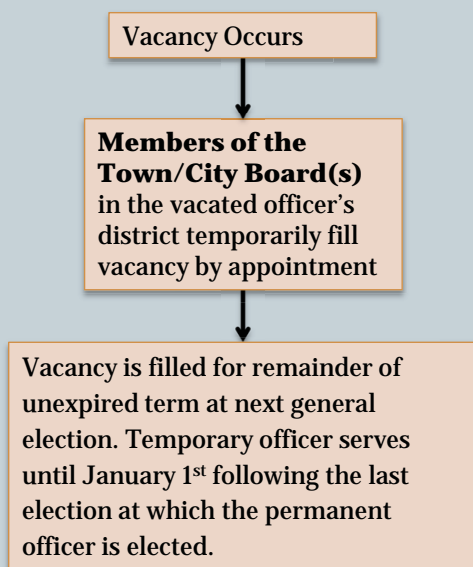


- § 205. “A vacancy in the County Legislature shall be filled by appointment by a majority of the remaining members of the County Legislature within forty days of the vacancy. The appointee shall serve until the January 1st following the next general election, at which election such vacancy shall be filled for the unexpired term.” – Albany County Charter

○ Note: Broome, Chemung, Erie, Putnam, Rensselaer, Rockland, and Schenectady Counties have similar charter provisions

Legislative Vacancy – Other Charter Counties

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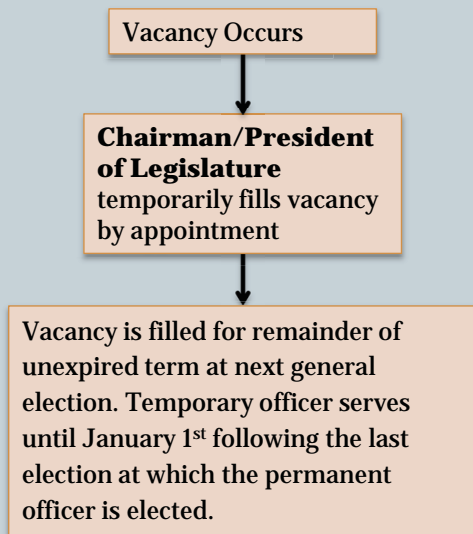
- § 2.04 “A vacancy in the office of County legislator shall be filled within the first forty-five (45) days of its occurrence as follows:

- in a legislative district lying wholly within the boundaries of one town or city by a majority vote of the whole town board or duty governing body;
- in a legislative district lying within the boundaries of two or more towns or one or more towns and a property or parts thereof, by a majority weighted vote of all the boards and duty governing boards assembled collectively for the purpose of filling such vacancy.” – Orange County Charter

*Note: Dutchess County has a similar charter provision

Legislative Vacancy – Other Charter Counties

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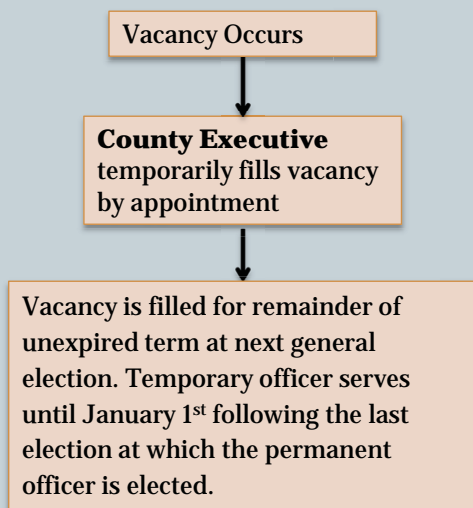


- §204. "A vacancy in the county legislature shall be filled by appointment by the chairman of the county legislature within thirty days of such vacancy, and the appointee shall serve until the next general election, held not less than three months after such vacancy occurs, at which election such vacancy shall be filled for the unexpired term." – Herkimer County Charter

○ Note: Monroe County has a similar charter provision

Legislative Vacancy – Other Charter Counties

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- §205. "A vacancy in the county legislature shall be filled by appointment by the county executive within thirty days of such vacancy and the appointee shall serve until the next general election after such vacancy occurs, at which election such vacancy shall be filled for the unexpired term." – Onondaga County Charter

○ Note: Oneida County has a similar charter provision

Time Limits

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- **Temporary appointment must be made within 30 days of vacancy**
 - Chautauqua, Dutchess, Herkimer, Onondaga, Rockland, and Ulster Counties
- **Albany County**
 - Legislature must make temporary appointment within **40 days** of vacancy
- **Nassau County**
 - County Executive must call for special election with **30 days** of vacancy
 - Special election must occur within **60 days** of vacancy
- **Orange County**
 - Town Board(s) must make temporary appointment within **45 days** of vacancy
- **Tompkins County**
 - Special election must be held within **75 days** of vacancy
- **Westchester County**
 - Special election or appointment (whichever applicable) must be held within **90 days** of vacancy

Special Provisions

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- **Temporary appointment must be of same political affiliation as vacated officer**
 - Broome, Chautauqua, Chemung, Erie, Herkimer, Monroe, and Oneida Counties
- **Appointee may not be a candidate for any public office**
 - Westchester County
- **Special election occurs if appointing authority fails to make temporary appointment within provided time**
 - Dutchess, Orange, Rockland, and Ulster Counties
- **General election must occur at least 3 months after vacancy occurs**
 - Herkimer County
- **If vacancy occurs after 9/21, the temporary appointee will serve until the first day of the second calendar year after the first general election occurring after the vacancy**
 - Broome, Chemung, Monroe, Schenectady

Questions?

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Capital Planning and Budgeting



Westchester Charter Commission – Capital Planning and Budgeting

1

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JUNE 20, 2013**



Key Elements – Acquiring, Managing and Financing Local Government Capital Assets

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1. Inventory
2. Maintenance
3. Planning Process
4. Plan Approval/Adoption
5. Capital Budget

Definition – Capital Assets

3

- “Capital assets include: land, land improvements, buildings, building improvements, construction in progress, machinery and equipment, vehicles, infrastructure, easements, and works of art and historical treasures.”

○ <http://www.la.state.la.us/userfiles/file/capas.pdf>

Defining Capital Assets Parameters

4

- Definitions are locally adopted – Westchester:
 - Any physical betterment or improvement or any preliminary studies and surveys relative thereto.
 - The acquisition of property of a permanent nature.
 - The purchase of equipment for any public improvement or betterment when first erected or acquired. (Source: Westchester Charter§167.11)
- Asset Value – Minimum Level for Inclusion in Inventory – Westchester - \$50,000
- Useful Life – “Period of Probable Usefulness” – Westchester – More than one year
 - (Source: Westchester CAFR, 2012, p. 62)

Non-Charter Based Requirements Financial Reporting

5

- NYS Comptroller – Constitutionally designated to provide fiscal oversight of local governments. Comptroller specifies a “Unified System of Accounts”
- The Comptroller requires adherence to Generally Accepted Accounting Principles, now promulgated largely by the Government Accounting Standards Board (GASB). These principles specify methods for reporting, valuing and depreciating capital assets.
 - <http://www.osc.state.ny.us/localgov/pubs/arm.pdf>

The Combined Annual Financial Report (CAFR)

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- “The GASB’s Codification states that every governmental entity should prepare and publish, as a matter of public record, a comprehensive annual financial report (CAFR) that encompasses all funds and account groups of the primary government including its component units. The codification recognizes the CAFR as the ‘official annual report’ of the government.”

- <http://www.osc.state.ny.us/localgov/pubs/arm.pdf> (p.36)

GASB 34

7

- GASB Statement No. 34 adopted in 1999 specifies the character and content of “Basic Financial Statement and Management’s Discussion & Analysis for State & Local Governments”
- Adherence encouraged but “full implementation” not required by NYS Comptroller
<http://www.osc.state.ny.us/localgov/pubs/arm.pdf> (p.39)
- Discipline is through the external auditing process, the financial markets and political considerations

Westchester Combined Annual Financial Report (CAFR) – 2012

8

- “The County maintains separate documented policy guidelines for cash management investments, purchasing, capital assets, and a five-year capital improvement program. These policies are reviewed, and updated if warranted, on an annual basis.”

○ Anne Marie Berg, Westchester County Commissioner of Finance (CAFR p.5)

1. Inventory

9

- Required by GASB 34:
 - “Each inventory record should include: description, year of acquisition, method of acquisition (e.g., purchase, donation, etc.), funding source, cost or estimated cost, salvage value, and estimated useful life. The inventory record will also need to identify the function(s) that use the asset.”
- May be additionally required by the charter (responsibility varies – Executive, Commissioner of Finance, Purchasing Agent)

Value of Westchester's Capital Assets (CAFR, 2012, pp. 27-28)

10

- "The County's investment in capital assets for its governmental activities as of December 31, 2011 amounts to \$2,535,925,291 (net of accumulated depreciation) as compared to \$2,436,751,223 in 2010, an increase of \$99,174,068. This investment in capital assets includes land, buildings, equipment, infrastructure and construction-in-progress. The total increase in the County's investment in capital assets for the current fiscal year was 4.1% percent."

Westchester's Capital Assets – Major Categories (CAFR, 2012)

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EXHIBIT P-15

Westchester County Capital Asset Statistics by Function Last Ten Fiscal Years

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Parks										
Total acreage	16,197	16,650	16,050	16,650	17,843	17,843	17,843	17,843	17,843	17,843
Number of parks	44	65	55	65	65	70	70	70	70	70
Number of historical sites	9	9	9	9	9	9	9	9	9	9
Number of golf courses	5	5	5	5	5	5	5	5	5	5
Number of nature centers	7	7	7	7	7	7	7	7	7	7
Number of trails	4	4	4	4	4	4	4	4	4	4
Number of ponds	5	5	5	5	5	5	5	5	5	5
Education										
Westchester Community College (main campus)	1	1	1	1	1	1	1	1	1	1
Health										
Hospital (a Public Benefit Corp./County component unit)	1	1	1	1	1	1	1	1	1	1
Health Department, Clinics in County-owned buildings	4/1	4/1	4/1	4/1	4/1	4/1	4/1	4/1	4/1	4/1
Boat (used for water sampling)	2	2	2	2	2	2	2	2	2	2
Home and Community Services										
Sewer Systems (County operated)										
Miles of sanitary sewers	194	194	194	194	194	194	194	194	194	194
Number of treatment plants	7	7	7	7	7	7	7	7	7	7
Water Systems (County operated)										
Miles of water mains	17	17	17	17	17	17	17	17	17	17
Transportation										
Buses	353	353	353	353	358	356	348	358	347	347
Permit/Transit Vans	54	54	54	54	60	60	65	75	83	86
Transit Connect	-	-	-	-	-	-	-	-	-	10

Sources: County departments or Operating Budget

2. Maintenance

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- Not generally required in charters
- But required by the NYC Charter
- How enforced?

Maintenance -Compare the Politics

13

- Maintenance



- New Construction



Maintenance – NYC Charter

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- The city charter requires, for each item on the inventory
 - “an assessment of its condition and a schedule, by year, of maintenance activities”
 - “Such maintenance schedules and amendments thereto, other than amendments reflecting the disposition or demolition of any portion of the capital plant, shall be prepared or reviewed by professional engineers or architects registered in the state of New York and such engineers or architects shall set forth in writing
 - ✦ (1) their opinions as to the reasonableness and sufficiency of the activities set forth in such schedules for maintaining such portions of the capital plant and
 - ✦ (2) their recommendations, if any, for changes in such schedules.”

§ 1110-a. Capital plant inventory and maintenance estimates.

3. Planning

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- Multi-year time horizon – most often 6 years
- Rolling revisions – usually annual
- Specified time schedule
- Department based development
- Coordinated by _____ under executive authority
- Presented by the executive
- Adopted by the legislature

Capital Planning – Westchester Charter §167.21

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- Department Based
- Five Year Time Horizon
- Annually, by May 1
- “Detailed estimates” required
- Coordinated by the Budget Director,
- Information simultaneously provided to
 - County Planning Board
 - Capital Projects

Capital Planning – Time Horizon Other Counties

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- 3 years – Suffolk
- 5 years – several
- 6 years – most common

Capital Planning Westchester Planning Board Role - Charter §167.22

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- By September 10, annually:
 - "...the County Planning Board shall submit to the County Executive, to the Budget Director and to the Capital Projects Committee its recommendations in regard to the physical planning aspects of the proposed capital projects..."

Other Counties – Formal Recommendation by Additional Depts.

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- Dept. of Legislative Budget Review - Nassau
- Department of Public Transportation – Putnam
- Department of Planning – Monroe
- Capital Projects Committee Tompkins
 - (Legislative – No county executive)

Westchester Capital Plan preparation

Capital Projects Committee

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- **Members** – "...the County Executive, as Chairman, Budget Director, Commissioner of Planning, Chairman of the County Board, Chairman of the Committee on Budget and Appropriations of the County Board, Commissioner of Public Works and Transportation, Commissioner of Environmental Facilities, Commissioner of Parks, Recreation and Conservation and Chief Information Officer
- **Annually** - propose a Capital Plan for the ensuing **five years**
 - Source: Charter §167.51
- Report printed with the county budget
 - Source: Charter § 161.67.6

A Page from the Westchester Capital Plan -

21

	Estimated Ultimate Total Cost	Appropriated	Expended Obligated	2013	2014	2015	2016	2017 Under Review	
B019A Repair Utility Tunnels, Valhalla Campus									
Gross	3,850	3,850	0	0	0	0	0	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0	0
Net	3,850	3,850	0	0	0	0	0	0	0
B0029 County Office Relocations									
Gross	19,301	11,381	10,444	0	0	0	0	0	7,720
Less Non-County Shares	(570)	(570)	(464)	0	0	0	0	0	0
Net	18,731	11,011	9,980	0	0	0	0	0	7,720
B0034 White Plains Complex, HVAC Equipment Reinforcement									
Gross	5,050	5,050	3,847	0	0	0	0	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0	0
Net	5,050	5,050	3,847	0	0	0	0	0	0
B035B Heavy Equipment Replacement Program (2006-2010)									
Gross	1,850	1,850	1,313	0	0	0	0	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0	0
Net	1,850	1,850	1,313	0	0	0	0	0	0
B035C Heavy Equipment Replacement Program (2012-2016)									
Gross	1,700	350	0	350	350	375	275	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0	0
Net	1,700	350	0	350	350	375	275	0	0
B035D Heavy Equipment Replacement Program (2017-2021)									
Gross	2,165	0	0	0	0	0	0	450	1,715
Less Non-County Shares	0	0	0	0	0	0	0	0	0
Net	2,165	0	0	0	0	0	0	450	1,715
B042A Roof Replacement Program (2007-2011), Various Locations									
Gross	8,600	8,600	4,968	0	0	0	0	0	0
Less Non-County Shares	0	0	(29)	0	0	0	0	0	0
Net	8,600	8,600	4,939	0	0	0	0	0	0
B042B Roof Replacement Program (2012-2017), Various Locations									
Gross	8,960	1,550	0	2,600	810	4,000	0	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0	0
Net	8,960	1,550	0	2,600	810	4,000	0	0	0

E13

Version 3.0 released on 02/07/2014

Capital Planning Elements– Westchester Charter

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- Necessity
- Priority
- Location
- Cost
- Method of financing

○ Source: Charter §167.61

Capital Planning – Other Counties Estimated Operating Costs

23

- Albany – “estimated operating and maintaining costs of proposed facilities”
- Similar provisions in Broome, Chautauqua (20 years out!), Oneida, Monroe, Putnam (for 6 years), Schenectady

Capital Planning Westchester -Additional Criteria

24

- Properties designated “parkland” have been evaluated using the Parks and Open Space Policy guidelines developed and endorsed by the Planning and the Parks, Recreation and Conservation Boards.
- Properties designated as “general purpose” are not encumbered by state laws controlling uses for parkland. Such properties may include office buildings, land to serve as buffers to existing County facilities, etc.
- Priority is given to projects of a life-safety nature.
- Where there has been a major deterioration of an existing capital asset, a capital expenditure will be considered if it restores and/or increases the original net worth of the asset. This is distinguished from normal annual maintenance expenses... or non-recurring repairs (e.g., roof patching)....
- Advance Planning Bonds may provide funds for planning costs associated with future capital projects.

○ Source: Introduction to the Westchester Capital Program, 2012, pp. 5 & 6.

Capital Planning Possible Additional Criteria

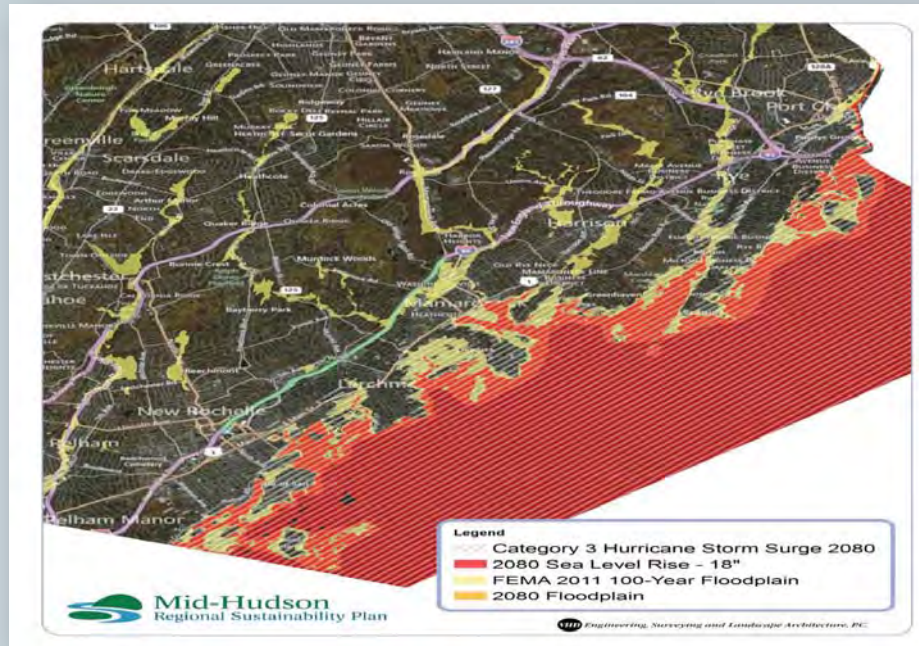
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Examples:

- Longer than five year thinking
- Resilience (Emergency Preparedness)
- Sustainability
 - Energy efficiency
 - Smart growth (investing in core communities)

Capital Plan Preparation – Additional Criteria – e.g. Resilience

26



Example- Resilience Facilities at Risk -Wastewater

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	FEMA Floodplain Existing (2011)	2080 Floodplain	Cat. 3 – Existing (2012)	Cat. 3 2080
New Rochelle STP	×	×	×	×
Yonkers Joint WWTP	×	×	×	×
Mamaroneck WWTP	×	×	×	×
Ossining Wastewater Treatment PLANT	×	×	×	×
Joint Regional Sewerage Board WWTP			×	×
Haverstraw Joint Regional Sewage Treatment Plant			×	×
Stony Point (T) STP		×	×	×
City of Poughkeepsie Water Pollution Control Plant		×	×	×
Ulster (T) SD STP	×	×		
Kingston (C) Sewers & WWTP	×	×		×
New Paltz WWTP	×	×		
City of Newburgh Water Pollution Control		×		×
New Windsor STP		×		×
Wallkill (T) STP	×	×		
Goshen WWTP	×	×		
City of Rye DPW/Blind Brook WWTP	×	×		×

Source: Attachment II: Climate Change Vulnerability Assessment

Amending the Capital Plan – Westchester – §167.131

28

- Initiated by County Executive
- Approval by 2/3 of County Board
- Report by Planning Board – on “physical planning aspects” if a new project, or “any change in ...location, size or character...”

Amending the Capital Plan – Suffolk - §C4.13

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- Introduction: Executive or Legislator
- Approval by $\frac{3}{4}$ vote of body, or to override veto
- Possible Purposes detailed. “...to change the method of financing; to change the title of a project; to provide funding to correct, repair or to respond to a public emergency declared, in writing, to the Legislature by the County Executive and arising out of or caused by a sudden unforeseen occurrence or disaster, such as a hurricane, fire, tornado, flood, blizzard, explosion, airplane crash, earthquake, nuclear war, radiological emergency, war, civil unrest or disobedience, act of God or comparable event; to provide funding for projects that have gone out to bid and require budgetary modifications because the bid price exceeds the estimated costs included in the capital budget and/or program; or to correct a technical defect. ”
- Analysis by Legislative Budget Office: “...including but not limited to a statement as to the proposal's impact and effect on the County's operating budget, the County's tax rate and the County's real property tax levy for all County funds so affected. This written analysis shall also include a detailed statement as to the specific function and service to be provided with a comparison of the cost to provide such services by outside contractors or consultants versus utilization of in-house County personnel, regardless of whether or not positions of employment for such in-house personnel exist in the County budget at the time of the preparation of the analysis.

Separate Consideration and Transparency Capital Plan – Suffolk §C4-16, -19

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- April 15 - Executive – Submits
 - Capital Program
 - Accompanying Message addressing "...the long-term capital needs and financial resources of the County as well as his estimate of its year-by-year needs and resources over the next three years or for such longer period..."
 - "[A]... written report as to the balance in any reserve accounts that may have been established for the closeout of completed capital projects..."
- Note: Executive to conduct distinct public hearings on capital budget
- By May 15 – Legislative public hearing on capital program
- By June 30 – But no sooner than two weeks following the legislative hearing - Legislature approves
- Subject to executive item veto and legislative override by 2/3

Year to Year Operation and Sunset - Capital Plan

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- Is planning "real?" Are projects planned in out years actually undertaken.
- Sunset - Suffolk §C4-19– "Any capital project authorized and made a part of the County capital budget and program shall automatically expire on December 31 of the fifth fiscal year of its existence unless:
 - (1) Funds have been expended... for any component part of the general capital project during that period of time; or
 - (2) The duration of the project has been extended by duly enacted legislation of the County of Suffolk reauthorizing such project prior to its expiration date."

4.1 Capital Budget – Preparation, Form and Submission -Charter §167.61

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- Annual – by November 15
- Prepared by the County Executive, comments in Budget Message
- Submitted to the County Board and filed with its Committee on Budget and Appropriations
- Published with the Operating Budget and Capital Plan
- Must include, for comparison:
 - a) Appropriations for the last completed fiscal year;
 - b) Appropriations for the present fiscal year;
 - c) Recommendations of the County Executive for the ensuing fiscal year

4.2 Westchester Capital Budget – Preparation, Form and Submission – Charter §167.61(4)

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Must also include:

- Estimated ultimate total cost;
- Amount appropriated to date;
- Amount expended to date;
- Amount of additional or new appropriations included in the proposed budget for each project;
- Recommendation of the Planning Board;
- Method of financing each pending and proposed capital project, as follows:
 - Through bonds or notes indicating terms and amount;
 - Through appropriations in current budgets;
 - Through other sources;
 - A statement showing amount of obligations yet to be issued for each pending and proposed capital project.

Westchester – 2013 Budget Adopted Capital Projects

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SUMMARY OF STATEMENT OF ADOPTED CAPITAL PROJECTS							
	Estimated Total Cost	Cumulative Appropriations	Cash	Non - County Share	Aggregate Bonding (Authorized and Anticipated)	Bonds Authorized	Anticipated Bonding
Buildings, Land and Miscellaneous	906,436,000	709,647,760	8,503,530	66,102,273	631,941,957	444,931,479	187,010,478
Pathways	136,664,000	128,364,000	720,000	59,214,000	66,430,000	36,471,000	32,969,000
Roads and Bridges	262,476,000	166,046,850	13,000	55,958,850	110,075,000	69,934,500	40,240,500
Recreation Facilities	549,851,000	260,706,000	1,258,000	3,968,437	255,479,563	144,734,000	110,745,563
Transportation	255,357,000	143,030,663	483,000	127,156,673	15,330,990	15,446,062	(55,072)
Total County	2,112,784,000	1,407,695,273	10,977,530	315,406,233	1,081,317,519	710,417,041	370,900,448
Airport	296,696,000	140,045,000	29,024,000	86,795,000	24,226,000	2,400,000	21,826,000
Refuse Disposal District No. 1	53,890,000	42,820,000	21,200,000	2,000,000	19,620,000	10,670,000	8,950,000
Sewer and Water Districts	1,494,743,000	879,087,000	16,150,000	9,970,000	852,967,000	737,963,000	114,984,000
TOTAL AIRPORT, REFUSE and SEWER	1,835,328,000	1,061,952,000	66,374,000	98,765,000	896,813,000	751,063,000	145,760,000
GRAND TOTAL	3,948,112,000	2,469,647,273	77,351,530	414,165,233	1,978,130,519	1,461,470,041	516,660,448

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Capital Budget – Sample Project Page

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EXTERIOR INFRASTRUCTURE REPAIRS, WHITE PLAINS COMPLEX (2011-2015) (B014C)										
User Department :		Public Works								
Managing Department(s) :		Public Works :								
Estimated Completion Date:		TBD								
Planning Board Recommendation: Project has historical implications. Project approved in concept but subject to subsequent staff review.										
FIVE YEAR CAPITAL PROGRAM (in thousands)										
	Gross	Est Ult Cost	Appropriated	Exp / Obl	2013	2014	2015	2016	2017	Under Review
Non County Share		9,750	3,150	2,244	2,200	2,200	2,200			
Total		9,750	3,150	2,244	2,200	2,200	2,200			
Project Description										
Rehabilitation of building exterior is including but not limited to masonry repairs, window repairs/ replacements, exterior water proofing/cleaning, facade inspection/testing/repairs, wall repairs, painting, security and lighting systems, landscaping and shrubbery, walkways and driveway repairs and renovations, and other site work in the White Plains Complex (MOB, Low Rise Bldg., Richard J. Daronco Courthouse and Annex, White Plains Parking Structure and Lots, 112 East Post Road, 85 Court Street, and 143 Grand Street).										
Current Year Description										
The current year request funds Phase III, facade repairs and waterproofing at the Michaelian Office Building.										
Current Year Financing Plan										
Year	Bonds	Cash	Non County	Shares	Total					
2013	2,200,000				2,200,000					
Impact on Operating Budget										
The Operating Budget will be impacted by the debt service associated with the issuance of bonds.										
Appropriation History										
Year	Amount	Description								
2011	950,000	Design & construction of Phase I facade repairs at MOB - COMPLETE								
2012	2,200,000	Design, construction and construction administration for Phase II facade repairs - MOB - IN CONSTRUCTION								
Total	3,150,000									
Prior Appropriations										
	Bond Proceeds	Appropriated	Collected	Uncollected						
		3,150,000	900,000	2,250,000						
Total		3,150,000	900,000	2,250,000						
Bond Issued										
Bond Act	Amount	Date Sold	Amount	Balance						
74 11	950,000	10/24/12	725,974	150,000						
		10/24/12	74,026							
20 12	2,200,000	10/24/12	90,747	2,100,000						
		10/24/12	9,253							
Total	3,150,000		900,000	2,250,000						




C9

Questions?

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County Clerk



Westchester Charter Commission – County Clerk

1

**GERALD BENJAMIN – DIRECTOR
CARLING DEVIN – RESEARCH ASSISTANT
CRREO
JUNE 20, 2013**



WESTCHESTER COUNTY, NEW YORK

County Clerk as Constitutional Officer

2

- NYS Constitution Article XIII §13. §13. (a) "Except in counties in the city of New York and except as authorized in section one of article nine of this constitution ... the sheriff and the clerk of each county shall be chosen by the electors once in every three or four years as the legislature shall direct."

Article IX § 9 (h) (1)- Constitutional Home Rule (1963)

3

"(h) (1) Counties, other than those wholly included within a city, shall be empowered by general law, or by special law enacted upon county request pursuant to section two of this article, to adopt, amend or repeal alternative forms of county government provided by the legislature or to prepare, adopt, amend or repeal alternative forms of their own."

County-wide elected Officials – Non-charter counties

4

- County Judges
- District Attorney
- County Clerk
- Sheriff*
- Treasurer*
- Coroner*

*No longer elected in Westchester as a result of charter adoption

Making elective offices appointive

5

- Charter adoption or change - Referendum requirement – Treasurer, Sheriff
- New offices may be created – e.g. Comptroller
- Limitations in Law
 - “Constitutional Officers” - ???
 - Municipal Home Rule Law -§34.2.f County charter may not alter “The composition, functions, powers, duties or jurisdiction of a court or of the officers thereof”

Continuation of Westchester County Clerk as Elected

6

- Westchester Charter §164.81. “The office of County Judge, Surrogate, Judge of the Family Court, District Attorney and **County Clerk** are hereby **continued as elective officers**, with all of the powers and duties conferred or implied by law upon such officers in the county, not inconsistent with the provisions of this act; provided that all such officers shall be governed by the provisions of this act relating to the budget, finance, personnel and purchasing.

County Clerk – Other Charters Defining the job and requirements

7

- Term – 3 or 4 years
- Residence requirement – e.g. one year continuous residence in county
- “A qualified elector” - Broome
- Prohibition of simultaneous tenure in political office – Albany §1601 “...she shall not hold the position of chair, vice-chair, secretary or treasurer of a County Political Party Committee.” (Also Putnam)
- Term limitation – Suffolk – 12 years
- Gender neutral language – Ulster
- Full time/no conflict of interest – Broome, Putnam

What criteria may be used for distinguishing elective from appointive office?

8

- General administration – Colonial era
- Widespread use of election - Jacksonian legacy in rural governance
- The Progressive model – hierarchy and accountability
- Policy vs. administration - Is the policy/administration dichotomy" compelling?
- Costs and benefits of change

Functions of the County Clerk

9

"Keepers of the Record"



Non-Charter Counties Clerk Functions

10

- County Law § 525. County clerk; duties.
- 1. The county clerk shall perform the duties prescribed by law as register, and be the clerk of the supreme court and clerk of the county court within his county. He shall perform such additional and related duties as may be prescribed by law and directed by the board of supervisors.
- 2. He shall provide at the expense of the county, all books, files and other necessary equipment for the filing, recording and depositing of documents, maps, papers in actions and special proceedings of both civil and criminal nature, judgment and lien dockets and books for the indexing of the same as directed or authorized by law.

Powers and Duties – e.g. Monroe Charter

11

- § C7-1. Powers and duties:
- “(1) To act as the official registrar of the County.
- (2) To record deeds, mortgages, maps and other actions affecting real property.
- (3) To act as the official Clerk of the State Supreme and County Courts and, as such, make an accurate recording of all proceedings.
- (4) To process applications for naturalization and administer oaths for such.
- (5) To issue passports, hunting and fishing licenses and pistol permits, as authorized by applicable law.
- (6) To supervise the operation of the Auto License Bureau, as authorized by state law.
- (7) To perform such other duties as may be set forth in the Administrative Code, and as may be required by other laws.
- Absence of restriction. Nothing in this section shall be construed to limit the powers and duties of the office of County Clerk, as provided by the New York State Constitution and other laws.”

Other Functions - Upstate Counties

12

- Commissioner of Jurors
- Records Management
- Public Information Officer
- Agent for the DMV (51 counties)
 - Issues
 - ✦ revenue sharing
 - ✦ licensing illegal alien drivers

Tompkins – Paying Over Fees

13

- Dates to a time of fee-based compensation of elected officials, and the abuse of this practice.
- § C-18.02 “Except as may otherwise be required by law, all moneys to which the County Clerk may be entitled under and by virtue of the laws of the State of New York, or which the County Clerk may receive for services rendered by the Clerk or the Clerk's office shall apply to or be for the benefit of the County and shall be collected and accounted for by the Clerk and paid over to the County Finance Director without deduction at such time and on such conditions as the latter may prescribe.

Westchester Clerk

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- Duties not specified in charter -
- Maintains and provides access to legal documents and land records
- Otherwise support court operations
- Organize events in connection with court actions – naturalization
- Agent for U.S. passport issuance
- Licensing of some occupations - plumbers
- Pistol license administration (opt out provision)

Questions?

15



Ethics

Ethics Reform in Westchester County

Westchester County Charter Revision Commission
Ethics Reform in Westchester County
Mark Davies
June 20, 2013
White Plains

I. Purpose, Principles, and Content of an Effective Government Ethics Law¹

Any attempt to enact or revise a government ethics (conflicts of interest) law is doomed to failure unless one first understands the purpose, principles, and structure underlying such laws.

Purpose of government ethics laws:

To promote both the reality *and the perception* of integrity in government by *preventing* unethical conduct (conflicts of interest violations) *before* they occur.

Underlying principles: Government ethics laws

- Promote both the reality *and the perception* of integrity in government
- Focus on *prevention*, not punishment
- Recognize the inherent honesty of public officials, whom these laws seek to guide
- Are not intended to (and will not) catch crooks, which is the province of penal laws, law enforcement agencies (including inspectors general), and prosecutors
- Do not regulate morality (most are really conflicts of interest laws not ethics laws)
- Require that the public have a stake in the ethics system.

Values-based v. compliance-based laws

- Values-based (ethics) laws promote positive conduct but lack sufficient specificity to permit civil fines and other enforcement (except disciplinary action)
E.g., “public officials shall place the interest of the public before themselves.”
- Compliance-based (conflicts of interest) laws provide bright-line, civilly and criminally enforceable rules but focus on negative conduct and interests
E.g.: “a public official shall not accept a gift from any individual or firm doing business with the government agency served by the official.”
- Best practice:
 - Set forth ethical precepts (code of ethics)
 - From those, draw out compliance-based rules (conflicts of interest code)

Definition of conflict of interest

“Conflict of Interest” = Divided loyalty

That is, a conflict, usually (though not always) a financial conflict, between one’s private interests and public duty

Three pillars. An effective government ethics law must rest upon three pillars, removal of *any* of which causes the entire structure to collapse:

- (1) A simple, comprehensive, and comprehensible **code of ethics**
Common provisions include:
 - Using one’s government office for private gain – and recusal

- Using government resources for private purposes
- Soliciting gifts or accepting gifts from persons doing business with the government
- Seeking or accepting private compensation for doing one's government job (tips; gratuities)
- Soliciting political contributions or political activity from subordinates or from those with whom one deals as part of one's government job
- Disclosing confidential government information or using that information for a private purpose
- Appearing before government agencies on behalf of private interests or representing private interests in government matters
- Seeking a job from a private person or firm with which one is dealing in one's government job
- After leaving government service,
 - Appearing on behalf of a private employer before one's former government agency for a specified period (e.g., one year)
 - Working on a matter on behalf of a private employer that one worked on personally and substantially while in government service
 - Revealing or using confidential government information
- Inducing other government officials to violate the conflicts of interest code

(2) **Sensible disclosure**

- **Transactional disclosure** and recusal when a potential conflict actually arises ("My brother's company is bidding on this contract, so I recuse myself") – most important type of disclosure
- **Applicant disclosure** by private citizens or firms seeking government business or a government license or benefit, disclosing interests of officials in applicant or application – provides a check on transactional disclosure (*cf.* Gen. Mun. Law § 809)
- **Annual financial disclosure** – check on transactional disclosure; avoids conflicts of interest violations; focuses officials on the ethics code

(3) **Administration** by an independent ethics board

Touchstones of **independence**: qualified, volunteer board members of high integrity, with fixed terms, no other government positions, no government contracts, lobbying, or appearances, appointed by chief executive with advice and consent of legislative body (to avoid factions and leaks), removable only for cause; protected budget; staff accountable solely to board; vested with sole authority to interpret the ethics law (subject to court review)

Four duties of an ethics board:

- Provide timely and confidential advice on the legality of *future* conduct and interests under the ethics code (and perhaps grant waivers of the code)
- Train all officials in the requirements of the ethics code
- Administer the disclosure system (collect, review, make public)
- Enforce the ethics code when violations occur - to educate, deter, and emphasize how seriously the government takes the ethics code

- Absence of enforcement power over all officials subject to code makes the ethics board a toothless tiger
- Enforcement power includes complete control of investigations and prosecution; ability to commence investigations on own; subpoena power; broad range of penalties (civil fines *by the ethics board*, discipline, censure, damages, disgorgement, debarment); confidentiality

II. Revisions of Westchester's Ethics Law (Chapters 192 and 883)

*** = Most Important Revisions**

- (1) § 883.01 – Include values in preamble.
- (2) § 883.11 – Limit definitions.
- (3) § 883.21 – Revise Standards of Conduct:
 - * **Replace vague gifts provision with bright line rule (§ 883.21(a))**
 - Replace investments and private employment or services provisions with bright line rules (§§ 883.21(f), (g)).
 - Define “confidential information” and prohibit use of the information to further any associated person’s interest (§ 883.21(b)).
 - * **Amend revolving door provision (§ 883.21(h), (i)(3)) to**
 - **apply to all County officers and employees;**
 - **permanently bar them from working on non-ministerial matters they personally and substantially worked on for the County;**
 - **bar them for one year from appearing before their former County agency on any non-ministerial matter;**
 - **prohibit them from discussing any possible job with any person or firm they are dealing with in their County job; and**
 - **prohibit them from ever disclosing or using confidential County information.**
 - Add provisions on
 - * **Most critically, a general prohibition on use of one’s County position to benefit oneself, family, private employer or business, or those with whom one has a financial relationship;**
 - * **An accompanying recusal requirement to avoid such misuse;**
 - A prohibition on use of County time, letterhead, resources, personnel, and supplies for non-County purposes;
 - The General Municipal Law’s prohibition on interests in contracts with the County (Gen. Mun. Law §§ 801-804, 805);
 - A prohibition on acceptance of payment from anyone other than the County for performing one’s County duties (tips);
 - A prohibition on solicitation of subordinates, vendors, or those with whom one deals in one’s County job for political contributions, political activity, or contributions to a not-for-profit organization; and
 - A prohibition on financial relationships between superiors and subordinates.
 - Consider addition of provisions on
 - Restrictions on political activities or political positions by high-level

- appointed County officials;
 - A prohibition on inducing another County official to violate the Standards of Conduct;
 - More restrictive revolving door rules for high-level officials.
- (4) §§ 883.61- 883.101 – In annual financial disclosure,
 - Amend Form A to tie the questions *directly* to the Standards of Conduct (§ 883.71(1)).
 - Empower ethics board to impose fines for late filing (*cf.* § 883.71(3)).
- *(5) § 192.11- Prohibit ethics board members from holding any other County position.²**
- *(6) Provide ethics board with guaranteed budget or mandate Law Department provide staff assistance as ethics board may reasonably require, provided counsel may not disclose to anyone outside ethics board any confidential board information.**
- *(7) Eliminate Board of Legislators’ power to grant waivers of Standards of Conduct (§§ 883.21(h)(2), (i)(3)) and give ethics board broad waiver power, provided waivers may not permit conduct or interests prohibited by state law.**
- *(8) §§ 883.101, 883.111; Chapter 192 – Most important of all, empower ethics board to investigate on its own initiative possible violations of Standards of Conduct by *any* County officer or employee and to impose civil fines for a violation by any County officer or employee.**

¹ See Mark Davies, *Enacting a Local Ethics Law – Part I: Code of Ethics*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 21, No. 3, at 4 (Summer 2007); Mark Davies, *Enacting a Local Ethics Law – Part II: Disclosure*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 21, No. 4, at 8 (Fall 2007); Mark Davies, *Enacting a Local Ethics Law – Part III: Administration*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 1, at 11 (Winter 2008); Mark Davies, *Local Ethics Laws: Model Administrative Provisions*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 3, at 14 (Summer 2008); Mark Davies, *The Story of Dharma: The Three-Legged Ethics Dog*, NYSBA MUNICIPAL LAWYER, Vol. 26, No. 3, at 22 (Summer 2012); Mark Davies, *New York State Whiffs on Ethics Reform*, 5 ALBANY GOV’T L. REV. 710 (2012). See also Albany County Ethics Code, Local Law No. 8 of 2011, available at <http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/SampleEthicsLaws/AlbanyCountyEnactedLaw.pdf>.

² The Attorney General has concluded that a local government may enact a local law establishing the composition of a local ethics board that is inconsistent with Gen. Mun. Law § 808(3). 1986 Op. N.Y. Att’y Gen. 100 (Informal Op. No. 86-44), relying upon Mun. Home Rule Law §§ 10(1)(i), 10(1)(ii)(a)(1). An earlier Comptroller’s Office opinion to the contrary remains unpersuasive. See Op. State Compt. Op. No. 85-48. That opinion relied on section 13 of 1964 N. Y. Laws ch. 946, which chapter enacted Article 18 and which section provided, in relevant part, that “[n]o local law, ordinance, resolution, rule or regulation shall modify or dispense with any provision of article eighteen of the general municipal law, as added by this act; provided, however, that nothing herein contained shall prohibit a code of ethics adopted pursuant thereto from supplementing the provisions of this act.” Cf. Gen. Mun. Law § 806(1)(a) (“Such [local] codes [of ethics] may regulate or prescribe conduct which is not expressly prohibited by this article but may not authorize conduct otherwise prohibited”). The authority to enact a local law not inconsistent with the provisions of the Constitution or with a general law rests not only in state statutory law (namely, Mun. Home Rule Law § 10(1)(i) and (ii)(a)(1)) but also in the Constitution itself (N.Y. Const., Art. IX, § 2(c)). The state legislature, by enactment of Article 18, may not void that Constitutional right of local government. The only issue, therefore, is whether the provisions in Gen. Mun. Law § 808 regulating the composition and establishment of local ethics boards is a general law. In the opinion of the Attorney General, those provisions are clearly not a general law (in contrast to the substantive provisions in sections 801 through 805-a) because they apply only to those municipalities opting into them. Furthermore, one may well argue that the requirements proposed in these remarks for the establishment and composition of a local ethics board are more stringent than the state law since, for example, they provide greater independence for the ethics board and promote, rather than discourage, inquiries and complaints.

Ethics Reform in Westchester – Proposed Amendments

**Westchester County Charter Revision Commission
Ethics Reform in Westchester County
by Mark Davies**

Proposed Amendments¹

Sec. 883.21. Standards of conduct. [L.L. No. 3-1988, § 1; amended by L.L. No. 3-1989]

The officers or employees of the County of Westchester shall be subject to and abide by the following standards of conduct:

(a) Misuse of office. They shall not use their county position or office, or take or fail to take any action as a county officer or employee, in a manner that they know or should know may result in a personal financial benefit for any of the following:

- (1) the county officer or employee;**
- (2) his or her non-county employer or business;**
- (3) a person claimed as a dependent on the county officer's or employee's most recent federal income tax return;**
- (4) a relative;**
- (5) a person or entity with whom or with which the county officer or employee has a financial relationship of \$1,000 or more;**

¹ See generally Mark Davies, *Considering Ethics at the Local Government Level*, in Patricia E. Salkin, ed., *ETHICAL STANDARDS IN THE PUBLIC SECTOR* 145 (ABA 2nd ed. 2008); Mark Davies, *Keeping the Faith: A Model Local Ethics Law – Content and Commentary*, 21 *FORDHAM URBAN LAW JOURNAL* 61 (1993), available at http://www.nyc.gov/html/conflicts/downloads/pdf2/municipal_ethics_laws_ny_state/keep_faith_model_loc_ethics_law.pdf; Mark Davies, *Enacting a Local Ethics Law – Part I: Code of Ethics*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 21, No. 3, at 4 (Summer 2007), available at <http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/MunicipalLawyerEthicsColumns/EthMunicipalLawyerSum07.pdf>; Mark Davies, *Enacting a Local Ethics Law – Part II: Disclosure*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 21, No. 4, at 8 (Fall 2007), available at <http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/MunicipalLawyerEthicsColumns/EthMunicipalLawyerFall07.pdf>; Mark Davies, *Enacting a Local Ethics Law – Part III: Administration*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 1, at 11 (Winter 2008), available at <http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/MunicipalLawyerEthicsColumns/ethmunicipalwin08.pdf>; Mark Davies, *Local Ethics Laws: Model Administrative Provisions*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 3, at 14 (Summer 2008), available at <http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/MunicipalLawyerEthicsColumns/EthMunicipalLawyerSum08.pdf>; Mark Davies, *The Story of Dharma: The Three-Legged Ethics Dog*, NYSBA MUNICIPAL LAWYER, Vol. 26, No. 3, at 22 (Summer 2012), available at http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/MunicipalLawyerEthicsColumns/26_3_2.pdf; Mark Davies, *New York State Whiffs on Ethics Reform*, 5 *ALBANY GOV'T L. REV.* 710 (2012), available at http://www.nyc.gov/html/conflicts/downloads/pdf2/municipal_ethics_laws_ny_state/NYState_Whiffs_on_Ethics_Reform.pdf. See also Albany County Ethics Code, Local Law No. 8 of 2011, available at <http://www.nysba.org/Content/NavigationMenu18/EthicsforMunicipalLawyers/SampleEthicsLaws/AlbanyCountyEnactedLaw.pdf>.

(6) a person from whom the county officer or employee has received election campaign contributions of more than one thousand dollars in the aggregate during the previous twenty-four months; or

(7) a not-for-profit organization of which the county officer or employee is a director, officer, or employee.

*Commentary: A prohibition on misuse of office is the most basic, and most important, provision of an ethics code. An official should never be permitted to use his or her office for private gain – for himself or herself, his or her family or private business or employer, or anyone with whom the official has a business or financial relationship. See, e.g., N.Y.C. Charter §§ 2601(5) and 2604(b)(3), available at http://www.nyc.gov/html/conflicts/downloads/pdf2/books/blu_bk.pdf. Such a benefit may result not only from taking an action but also from failing to take an action, such as failing to cite one's brother for a zoning violation. See Mark Davies, *Considering Ethics at the Local Government Level*, in Patricia E. Salkin, ed., *ETHICAL STANDARDS IN THE PUBLIC SECTOR* 145, 152-153 (ABA 2nd ed. 2008); Mark Davies, *Keeping the Faith: A Model Local Ethics Law – Content and Commentary*, 21 *FORDHAM URBAN LAW JOURNAL* 61, 71-72 (1993). The accompanying disclosure and recusal provision is set forth in a proposed § 883.21(k).*

(b) Gifts. They shall not, directly or indirectly, solicit any gifts, **regardless of value,** or accept or receive any gift having a value of ~~\$75.00~~**\$25.00** or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, ~~under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action on their part~~ **from any person or firm the officer or employee knows or should know has sought or received a financial benefit from the county during the previous twelve months or who or which is seeking such a benefit, subject to such exceptions as the County Board of Ethics shall establish by rule.** A donation to a person seeking public or party office or to a committee supporting the efforts of such person shall not be considered a gift hereunder.

*Commentary: The “reasonably be inferred” language, copied from Gen. Mun. Law § 805-a(1)(a), provides no guidance to public officials but instead creates only a trap. A bright-line rule is therefore preferable, subject to such exceptions as the ethics board may specify. See Jessica Alaimo, “Committee approves ethics bill,” *Rochester Democrat & Chronicle*, June 24, 2013 (reporting on Monroe County's replacement of “reasonably inferred” language, which the legislative sponsor called a big loophole), at <http://www.democratandchronicle.com/article/20130624/NEWS01/306240057/monroe-county-legislature-ethics-ldc>. The exceptions should not be set forth in the Standards of Conduct because of their length and because the formulation of such exceptions lends itself better to administrative than legislative action. In addition, casting exceptions in the concrete of legislation prevents relatively easy modification when an exception proves less than satisfactory in practice. Gifts that may be accepted should be de minimis, certainly no more than \$25. Officials should never solicit gifts, regardless of*

their value. Not all gifts are prohibited but only gifts from those persons who have recently sought or are seeking something from the County. See Mark Davies, Considering Ethics at the Local Government Level, in Patricia E. Salkin, ed., ETHICAL STANDARDS IN THE PUBLIC SECTOR 145, 155 (ABA 2nd ed. 2008); Mark Davies, Keeping the Faith: A Model Local Ethics Law – Content and Commentary, 21 FORDHAM URBAN LAW JOURNAL 61, 72-73 (1993).

(c) Confidential information. They shall not disclose confidential information acquired by them in the course of their official duties or use such information to further their personal interests or the interests of any of the persons or entities set forth in subsection (a) of this section.

Commentary: Confidential County information is often properly used to further personal interests – the granting of every permit and the awarding of every contract in fact furthers personal interests, and some of those permits and contracts may properly involve the use of confidential information. But confidential County information must not be used to further the personal interests of anyone with whom the County officer or employee is associated, including family members and business associates. See Mark Davies, Considering Ethics at the Local Government Level, in Patricia E. Salkin, ed., ETHICAL STANDARDS IN THE PUBLIC SECTOR 145, 156 (ABA 2nd ed. 2008); Mark Davies, Keeping the Faith: A Model Local Ethics Law – Content and Commentary, 21 FORDHAM URBAN LAW JOURNAL 61, 74-75 (1993).

Reletter existing subsections (c) through (g) as (d) through (h).

(h) (i) Future employment.

~~1. After the termination of service or employment with the county, no former reporting officer or employee, on his or her own behalf or as an employee, agent or representative of another, may appear before any agency in relation to any contract, case, proceeding or application in connection with which he or she personally rendered substantial services during the period of his or her service to or employment by such agency; nor shall any such former reporting officer or employee appear before any such agency in connection with any other matter for a period of one year following such termination.~~

~~2. No paid reporting officer or employee shall accept present or future employment, within one year following termination of county service, with any person, firm or corporation which furnished goods or services to the county during such person's service to the county unless such potential employment is disclosed to the Board of Legislators before being accepted by the officer or employee and is approved prospectively by such board.~~

1. They shall not seek or obtain any non-county employment with any person or entity they are dealing with in their county job.
2. For one year after leaving county service, they shall not communicate for compensation with their former county agency on any non-ministerial matter

and shall never accept anything of value to work on any particular, non-ministerial matter that they personally and substantially worked on while in county service.

3. **After leaving county service, they shall not disclose confidential information acquired by them in the course of their official duties or use such information to further their personal interests or the interests of any of the persons or entities set forth in subsection (a) of this section.**
4. ~~A reporting officer or employee~~ **They** shall disclose in writing to an immediate supervisor any offer of employment received by such person from any person, firm or corporation which, to the knowledge of such officer or employee, is furnishing or seeking to furnish goods or services to the county, whether or not such offer is verbal or written and whether or not it is accepted.

*Commentary: The current revolving door provision has numerous defects. It applies only to high level County officials (reporting officers and employees); permits a former County official to work on a matter on which he or she worked for the County, as long as the official does not appear before the County on the matter; permits a County official to solicit and even accept a job with a firm he or she is dealing with in his or her County job, as long as the firm is not a vendor to the County; and authorizes the County Legislature, rather than the ethics board, to waive certain revolving door restrictions. Instead, the provision should apply to all County officers and employees; permanently bar them from working on any non-ministerial matter they personally and substantially worked on for the County; bar them for one year from communicating on behalf of their new employer or business with their former County agency on any non-ministerial matter (they could thus, for example, contest an assessment on their home since such a communication would be uncompensated); prohibit them from discussing a possible job with any person or firm they are dealing with in their County job; and prohibit them from ever disclosing or using confidential County information. Any waivers would be granted by the ethics board, not the Board of Legislators, pursuant to proposed section 192.41(G). See Mark Davies, *Considering Ethics at the Local Government Level*, in Patricia E. Salkin, ed., *ETHICAL STANDARDS IN THE PUBLIC SECTOR* 145, 158-159 (ABA 2nd ed. 2008); Mark Davies, *Keeping the Faith: A Model Local Ethics Law – Content and Commentary*, 21 *FORDHAM URBAN LAW JOURNAL* 61, 75-76 (1993).*

(i) Consulting services.

...

3. No reporting officer or employee shall, upon termination of employment with the county, become employed by or accept a position of paid consultant to the county or any agency thereof within a period of one year following such termination unless such consultation be first approved by the Board of ~~Legislators~~ **Ethics pursuant to section 192.41(G) of the Laws of Westchester County.**

Commentary: Vesting in a legislative body the power to waive a provision of the ethics code inevitably politicizes such waivers. Such power should be vested only in the ethics

board. See discussion of waivers in the commentary to proposed section 192.41(G) below.

(k) Transactional disclosure and recusal.

1. They shall promptly recuse themselves from acting on a matter before the county when acting on the matter, or failing to act on the matter, may financially benefit any of the persons or entities set forth in subsection (a) of this section.
2. Whenever they are required to recuse themselves pursuant to paragraph 1 of this subsection, they shall by writing promptly inform their immediate supervisor, if any, with a copy to the County Board of Ethics, of the recusal and the reason for it, provided, however, that if they are a member of a body they shall instead state the recusal and its ground upon the public record of the body.
3. A member of the Board of Legislators required to recuse on a matter pursuant to this chapter may vote on the matter, with the required disclosure, but may not otherwise participate in the matter.

*Commentary: When presented with a conflict of interest under subsection (a) of this section, a County officer or employee must recuse himself or herself in order to avoid misusing his or her County office or position for private gain. But the public must be apprised of the reasons for the recusal in order to ensure that it is sufficient and to reassure the public that officials are serving the public and not themselves. Thus, such disclosures must be publicly available, as set forth in the proposed revision to section 192.51. A simple email to a supervisor, cc to the ethics board, will suffice. A County board member need only state the recusal and its ground on the public record of the board. In the unusual case where disclosure would reveal confidential information, such as the name of an oncologist-legislator's patient, the ethics board can provide guidance. Legislators should not be required to recuse themselves from voting because doing so disenfranchises their constituents, but they should not be permitted to otherwise act on the matter, such as sponsoring legislation or lobbying for its passage. See Mark Davies, *Considering Ethics at the Local Government Level*, in Patricia E. Salkin, ed., *ETHICAL STANDARDS IN THE PUBLIC SECTOR* 145, 153, 162-163 (ABA 2nd ed. 2008); Mark Davies, *Keeping the Faith: A Model Local Ethics Law – Content and Commentary*, 21 *FORDHAM URBAN LAW JOURNAL* 61, 77-78 (1993); N.Y.C. *Conflicts of Interest Board Advisory Op. No. 2009-2* (discussing N.Y.C. Council members voting on, but not sponsoring, discretionary funds for a not-for-profit organization with which they are associated), available at http://www.nyls.edu/centers/harlan_scholar_centers/center_for_new_york_city_law/cityadmin_library.*

Sec. 883.101. Investigations and Formal Complaint Process. [Added by L.L. No. 10-2011]

1. Upon receipt of the confidential report by the Independent Consultant, or upon receipt of any complaint or upon its own initiative, the County Board of Ethics shall review the report or complaint and shall in any event determine whether subsequent action by the County Board of Ethics is warranted. To assist in this determination, the County

Board of Ethics shall send a letter to the individual(s) noting the issue that was brought to its attention and provide an opportunity to the individual to respond.

...

4. Individuals who are the subject of an investigation shall be provided with notice, and an opportunity to be heard, and any other due process requirements as required by the County Board of Ethics. Thereafter, the County Board of Ethics shall render a final determination regarding any potential issue raised by the Independent Consultant in a report and/or considered by the County Board of Ethics. If the County Board of Ethics finds that:

- a. there is a violation of the Code of Ethics, the County Board of Ethics shall issue a civil penalty as provided for in sections 883.71 and 883. 111 of this chapter;

Commentary: As currently drafted, Chapters 192 and 883 do not make clear that the ethics board has the power to impose civil fines up to \$10,000 for any violation of the Standards of Conduct, not just for one arising as a result of a review of financial disclosure statements conducted by an independent consultant pursuant to section 883.91. That power must be expressly set forth in the law. The above additions would do so. One must emphasize that an ethics board that lacks the power to impose fines for violation of the ethics law remains a toothless tiger that only raises expectations that it cannot meet and that thus undermines, rather than promotes, public confidence in the integrity of County government. Enforcement power requires complete control of investigations and prosecutions, the ability to commence investigations on the ethics board's own initiative, subpoena power, and a broad range of penalties (e.g., civil fines, discipline, censure, damages, disgorgement of ill-gotten gains, and debarment), some imposed by the ethics board, some by the employing agency, and some by the courts; but the ethics board itself must have the power to impose civil fines. See Mark Davies, Enacting a Local Ethics Law – Part III: Administration, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 1, at 11, 14-16 (Winter 2008); Mark Davies, Considering Ethics at the Local Government Level, in Patricia E. Salkin, ed., ETHICAL STANDARDS IN THE PUBLIC SECTOR 145, 166-169 (ABA 2nd ed. 2008); Mark Davies, Keeping the Faith: A Model Local Ethics Law – Content and Commentary, 21 FORDHAM URBAN LAW JOURNAL 61, 98-103, 112-116 (1993).

Sec. 192.11. Membership. [Added by L.L. No. 15-1993]

There shall be a County Board of Ethics consisting of seven members, to be appointed by the County Executive subject to the confirmation of the County Board, ~~a majority~~ none of whom shall ~~not~~ be an officers or employees of the county or municipalities wholly or partially located in the county ~~and at least one of whom shall be an elected or appointed officer or employee of the county or a municipality located within the county~~. No more than four members of such board shall be of the same political registration.

Commentary: Including County officials on the ethics board is a singularly bad idea because it significantly undercuts the independence of the board, both in reality and in

perception. Indeed, County officers and employees may hesitate to seek advice or file complaints if they believe that a "mole" serves on the ethics board who might disclose the complaint to the requester's or complainant's supervisor. So, too, an ethics board action favorable to a County officer or employee may well appear suspect to the public and to County public servants if a County official serves on the board. Although Gen. Mun. Law § 808 requires that a County official serve on the ethics board, the Attorney General has concluded that a local government may enact a local law establishing the composition of a local ethics board that is inconsistent with Gen. Mun. Law § 808. 1986 Op. N.Y. Att'y Gen. 100 (Informal Op. No. 86-44), relying upon Mun. Home Rule Law §§ 10(1)(i), 10(1)(ii)(a)(1). An earlier Comptroller's Office opinion to the contrary remains unpersuasive. See Op. State Compt. Op. No. 85-48. That opinion relied on section 13 of 1964 N. Y. Laws ch. 946, which chapter enacted Article 18 and which section provided, in relevant part, that "[n]o local law, ordinance, resolution, rule or regulation shall modify or dispense with any provision of article eighteen of the general municipal law, as added by this act; provided, however, that nothing herein contained shall prohibit a code of ethics adopted pursuant thereto from supplementing the provisions of this act." Cf. Gen. Mun. Law § 806(1)(a) ("Such [local] codes [of ethics] may regulate or prescribe conduct which is not expressly prohibited by this article but may not authorize conduct otherwise prohibited"). The authority to enact a local law not inconsistent with the provisions of the Constitution or with a general law rests not only in state statutory law (namely, Mun. Home Rule Law § 10(1)(i) and (ii)(a)(1)) but also in the Constitution itself (N.Y. Const., Art. IX, § 2(c)). The state legislature, by enactment of Article 18, may not void that Constitutional right of local government. The only issue, therefore, is whether the provisions in Gen. Mun. Law § 808 regulating the composition and establishment of local ethics boards is a general law. In the opinion of the Attorney General, those provisions are clearly not a general law (in contrast to the substantive provisions in sections 801 through 805-a) because they apply only to those municipalities opting into them. See Mark Davies, Enacting a Local Ethics Law – Part III: Administration, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 1, at 11-12 (Winter 2008); Mark Davies, Considering Ethics at the Local Government Level, in Patricia E. Salkin, ed., ETHICAL STANDARDS IN THE PUBLIC SECTOR 145, 165-166 (ABA 2nd ed. 2008).

Sec. 192.41. Additional powers and duties. [Added by L.L. No. 15-1993; amended by L.L. No. 10-2011]

In addition to any other powers and duties specified by this law, the Board of Ethics shall have the power and duty to:

A. Act as a repository for completed ~~financial~~ disclosure forms filed pursuant to Chapter 883 of the Laws of Westchester County and Article 18 of the General Municipal Law;

Commentary: All disclosure forms filed pursuant to Chapter 883 and Article 18 should be maintained by the ethics board, including transactional disclosure forms filed pursuant to proposed section 883.21(k) and disclosure forms, if any, filed pursuant to Gen. Mun. Law §§ 803 and 809.

...

E. Verify and ensure that all individuals required to file financial disclosure forms pursuant to Chapter 883 of the Laws of Westchester County and Article 18 of the General Municipal Law file such financial disclosure forms, and that said forms are fully completed. This duty shall be discharged by an Independent Consultant and the County Board of Ethics in accordance with the procedure set forth in Sections 883.91 and 883.101 of the Laws of Westchester County; **and**

...

G. Upon written application by a county officer or employee and written approval by his or her agency head, grant the applicant a waiver of any of the provisions of section 883.21 of the Laws of Westchester County, where the County Board of Ethics finds that waiving such provision would not be in conflict with the purposes and interest of the county, provided, however, that no such waiver shall permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law or waive the provisions of subsections (c), (f), or (k) of such section and further provided that waivers shall be in writing, shall state the grounds upon which they are granted, and shall be available for public inspection and copying; and

*Commentary: Waivers protect the County against an application of the Standards of Conduct that harms the County, for example, by preventing it from placing a trusted employee in a critical but troubled social services agency, in violation of the revolving door restrictions. Waivers also act as a safety valve where application of the Standards of Conduct is unfair or unjust or just does not make sense in the particular situation. Waivers may be conditioned, most often on some form of recusal. The requirement for agency head approval acts as a check on the validity of the facts represented by the applicant and helps ensure that a waiver would not harm the County. The proposed standard for granting a waiver – “would not be in conflict with the purposes and interests of the County” – has worked well in New York City over the past 20 years. See N.Y. C. Charter § 2604(e), available at http://www.nyc.gov/html/conflicts/downloads/pdf2/books/blu_bk.pdf, discussed in N.Y.C. Conflicts of Interest Board, *CONFLICTS OF INTEREST UNDER THE NEW YORK CITY CHARTER*, at 105-106, 151-153 (2013), available at http://www.nyc.gov/html/conflicts/downloads/pdf2/mono/mono_outside_acts.pdf (pages 13-14) and http://www.nyc.gov/html/conflicts/downloads/pdf2/mono/mono_postemployment.pdf (pages 12-14). Finally, since waivers permit a violation of law, they must always be public, to enable the public to determine the validity of the facts underlying them and to protect against the ethics board giving away the store. See Mark Davies, *Enacting a Local Ethics Law – Part III: Administration*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 1, at 11, 13 (Winter 2008); Mark Davies, *Considering Ethics at the Local Government Level*, in Patricia E. Salkin, ed., *ETHICAL STANDARDS IN THE PUBLIC SECTOR* 145, 151 (ABA 2nd ed. 2008); Mark Davies, *Keeping the Faith: A Model Local Ethics Law – Content and Commentary*, 21 *FORDHAM URBAN LAW JOURNAL* 61, 116-117 (1993).*

H. To appoint hearing officers and such other persons as are necessary to carry out its duties under this chapter and Chapter 883 of the Laws of Westchester County and to require the reasonable assistance of the Department of Law in the performance of the County Board of Ethics' duties, provided, however, that any confidential communications between the Board of Ethics and any such persons shall not be disclosed to anyone other than the Board of Ethics or its designees, except as otherwise required by state or federal law or by this chapter or Chapter 883.

*Commentary: Volunteer ethics board members cannot by themselves carry out the work of the board. At the same time, the board probably lacks the steady volume of work necessary to justify the hiring of ethics board staff. Thus, the ethics board must rely upon other County staff to draft advice letters, supervise and/or conduct investigations and prosecutions, train county officers and employees in the ethics law, manage the disclosure system (beyond the work conducted by the independent consultant under section 883.91), and otherwise advise and assist the ethics board members in meeting their statutory duties. The ethics law must therefore mandate that another County agency assist the ethics board. Since much of the ethics board's work is legal and since the Law Department is relatively insulated from the political winds, that agency may be best suited to provide such support. However, to preserve the integrity and independence of the ethics board, all confidential communications between the ethics board members and such assigned Law Department staff must be confidential from everyone other than the ethics board itself, upon penalty of prosecution for violation of proposed section 883.21(c) (confidential information). See Mark Davies, *Enacting a Local Ethics Law – Part III: Administration*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 22, No. 1, at 11, 12 (Winter 2008).*

Sec. 192.51. Public information. [Added by L.L. No. 15-1993]

Notwithstanding the provision of Article 6 of the Public Officers Law to the contrary, the only records of the Board of Ethics which shall be available for public inspection are:

- (i) The information set forth in an annual statement of financial disclosure **or other disclosure statement** filed pursuant to Chapter 883 of the Laws of Westchester County, except the categories of value or amount which remain confidential and any other item of information deleted pursuant to law;
- (ii) Notice of delinquency sent pursuant to law; and
- (iii) Notice of reasonable cause sent pursuant to law; **and**
- (iv) Notices of civil assessments imposed pursuant to law; **and**
- (v) Waivers issued pursuant to Chapter 883 of the Laws of Westchester County.**

Commentary: As noted above, all disclosure statements filed with the ethics board, including the transactional disclosure statements filed pursuant to proposed section 883.21(k), must be public, as must waivers granted by the ethics board pursuant to proposed section 192.41(G).

Resumes of Commission Members

ALFRED A. GATTA

33 Jared Road
White Plains, NY 10605

Home Tel: (914) 684-2257
Business Tel: (914) 722-1110

EDUCATIONAL BACKGROUND

Master of Public Administration, New York University, New York, NY
Bachelor of Science, Monmouth College, West Long Branch, NJ

SUMMARY OF QUALIFICATIONS

- Management of large organizations with emphasis on planning, budgeting, financing, organization and program development;
- Analysis of complex issues and presentation of creative solutions;
- Proven leadership with diversified work forces and development of consensus programs for team decision making;
- Reorganization of outdated costly delivery structures;
- Financial and budgetary management of complex organizations.

PROFESSIONAL BACKGROUND

VILLAGE MANAGER

Scarsdale, New York (Population 18,000)

April 1995 – Present

- Serve as chief administrative officer for a local government of 264 employees with combined budget of \$40m. Responsible for overall operations, including finance, budget, personnel, capital planning/dept management and 13 departmental programs;
- Restructured the annual budget presentation in General and Capital Funds to a more programmatic and performance based format;
- Guide and determine strategies for collective bargaining in the Village;
- Serve as liaison to County government on various matters such as Regional Sewer District, Regional Water District, Property Tax Revaluation, Legislation and Inter-Municipal Cooperation;
- Provide leadership and direction for the review of various public policy issues, including telecommunications antenna siting, home occupations, privatization of services, development strategy, property taxes and labor negotiations;
- Provided leadership for financing long-term lease of property for a not for profit child care and education program;
- Manage and direct capital improvement programs including a \$4.5m downtown infrastructure program; \$5m bridge replacement; \$1m library addition and \$2m pool rehabilitation and other public facilities projects such as planning and construction of tennis courts, ball fields, road infrastructure, facility lighting and water/sewer improvements;
- Established a special benefit tax district under section 22-2200 of N.Y.S. Village Law to offset downtown capital improvements;
- Work with 7 member elected board assisting in the establishment and implementation of public policy for the Village.

CITY ADMINISTRATOR**Ann Arbor, Michigan (Population 112,000)****July 1991 – April 1995**

- Served as chief administrative officer for a local government of 1,000 employees with a multi-fund operating budget of \$141m and a capital budget of \$230m;
- Restructured the city administration reducing the number of departments from 23 to 14 with an actual annual savings of \$90,000;
- Reorganized the annual budget presentation and designed a multi-fund budget and integrated the accounting system with the budget;
- Provided management leadership for \$27m water and sewer utility with a 19 mgd water treatment and 21 mgd sewage disposal system. Provided financial and policy direction relative to EPA compliance;
- Worked closely with the University of Michigan in comprehensive planning; problem solving and cost sharing of some capital improvements;
- Designed and guided plan for the privatization of the city's 6,600 space parking system;
- Planned and organized procurement process for the design, construction and operation of a materials recovery facility;
- Managed a 10,000 ton per year recycling collection/processing program and 40,000 ton per year sanitation collection system;
- Developed a pilot for community oriented policing system;
- Established negotiating strategy and at times acted as the lead negotiator in collection bargaining sessions with the 8 city labor unions;
- Performed complex public policy analysis in areas of taxing alternatives; user fees; health benefits; domestic partner program; privatization of services; capital forecasting and collective bargaining.

CONSULTANT/EDUCATOR**Hartford, Connecticut****January 1990 – July 1991**

- Consulted with the Hartford Foundation for Public Giving, the eighth largest community foundation in the country with \$210m in assets, in the area of establishing public land trusts for affordable housing;
- Consulted with the Connecticut Housing Investment Fund, a \$40m non-standard housing finance and development agency and prepared a strategic plan utilizing a 6 month long consensus methodology with the board and staff;
- Served as an adjunct professor at Trinity College in Hartford, Connecticut, in the Graduate Studies Public Policy Program teaching courses in urban administration and public policy.

CITY MANAGER**Hartford, Connecticut****October 1984 – January 1990**

- Chief Executive Officer responsible for an organization of 2,700 employees with a general fund budget of \$360m and a capital budget of \$256m;
- Instituted a comprehensive restructuring of the government organization representing the first major change since 1948;
- Managed the conversion of a computer mainframe from a Borroughs to IBM and the installation of automated systems including: finance; office management; health billing, mass appraisal, land base and budget preparation;
- Managed the design and production of a neighborhood information system which integrated the files of various city departments;
- Provided leadership for an economic development program utilizing various governmental tools that resulted in over 5 million square feet of new office construction;
- Guided the negotiation of complex real estate and development projects;
- Provided support to the City Council in establishing a program where downtown construction projects were coordinated to spur neighborhood development and the creation of jobs.

- Performed complex public policy analysis on various subjects including tax reform; property tax relief; privatization of services; development strategy; legislative strategy; municipal finance and collective bargaining;
- Worked with the City Council to establish the first Park Trust fund with \$8.2m initially invested;
- Guided a property tax revaluation for a base of \$6.4 billion;
- Established an organizational development program concentrating on team building, participatory management and team problem solving;
- Instituted the City's first Labor/Management Program emphasizing work site problem solving and joint planning on issues affecting parties;
- Worked with the City Council, performing the analysis and evaluation which lead to the privatization of golf courses in the City.

EXECUTIVE DIRECTOR**Riverfront Recapture, Inc., Hartford, Connecticut****October 1982 – October 1984**

- Chief administrator for a non-profit organization engaged in the planning and advocacy of a \$110m urban waterfront revitalization project;
- Managed core and consultant staff involved in public policy formulation, park design, highway and economic development, planning, public/private strategy formulation, grants, waterfront activities, public relations, advocacy and neighborhood interaction;
- Provided assistance to public and private sectors and interacted with government agencies & elected officials in matters related to economic and park development along the waterfront;
- Prepared grant applications to federal and state governments, and received funding for parks projects for Hartford and East Hartford leveraged by private sector contributions;
- Raised funds annually from private sector to support ongoing agency activities associated with land and water use issues in context of implementation of the comprehensive waterfront plan.

CITY MANAGER**Methuen, Massachusetts****January 1981 – October 1982**

- Chief executive officer responsible for the planning, organization, coordination, staffing, budgeting, and evaluation of programs for the local government, including a comprehensive program of public safety, community development, and human services. Operating budget for 1983 \$29m, capital budget \$11.5m;
- Managed programs related to community infrastructure such as sewer construction under PL 95-217 and State Collection System Program; 10 mgd water treatment plant; major park improvements under UPARR and HCRS; traffic improvements under Urban Systems; personnel improvements under IGPA;
- Instituted programs of public/private cooperation to improve management system. Lost time management and fleet management programs implemented;
- Completed a property and personal tax revaluation program for a base of \$695m. Instituted a computerized assessment update program to conform to state law;
- Implemented CDBG block grant of \$2.4m including housing repairs, street and sidewalk improvements and economic development through a CDC;
- Provided leadership for an economic development program to attract industry utilizing UDAG, public/private leveraging and creative tax measures.

CONSULTANT**State of Connecticut/Hartford Policy Center, Hartford, Connecticut July 1980 – January 1981**

- Associate Director of the Property Tax Relief Commission of the Connecticut State Legislature – prepared a study on property tax relief and the Connecticut Tax System;
- For Hartford Policy Center, worked as consultant to Council on Economic Priorities in New York City, in reference to energy conservation, and worked as consultant to the U.S. Department of Health and Human Services in matters of municipal energy management, conservation and crisis intervention.

SPECIAL ASSISTANT TO THE CITY MANAGER**Hartford, Connecticut (Population 136,000)****October 1979 – July 1980**

- Designed an energy/housing program consisting of prevention (abandonment avoidance), remedial intervention (fuel assistance, emergency shelters), maintenance and regeneration of housing. Established basic program of energy conservation and winterization. Coordinated central operation crisis center with state and CAP Agency. Prepared various studies on housing impact, fuel costs, fuel needs, and economic impacts of housing abandonment;
- Implemented systematic code enforcement program with loans and grants to deter housing abandonment; fuel intervention program and community shelter program. Established rent/receivership program to maintain and enrich housing stock;
- Prepared \$5.4m multi-fund budget for energy and housing consisting of systematic code enforcement, housing loans, grant program, housing rehabilitation, crisis intervention and cost recovery;
- Prepared grant to DOE and received funding for capacity building to deal with housing maintenance and production and to study the impact of high costs of fuel on housing. Filed energy housing plan with State OPM under the Municipal Grant Program;
- As Chief Energy Administrator, coordinated energy programs of CAP Agency, State OPM and federal government. Maintained close communications with federal CSA in reference to Energy Crisis Assistance Program. Presented alternatives for integrating various City and State Human Resource Programs. Served as liaison for the City delegation to the State Legislature.

ACTING DIRECTOR ON AGING**Hartford, Connecticut****October 1978 – October 1979**

- Managed department consisting of planners, outreach workers, social workers, management analyst, senior center directors and senior aides;
- Established an elderly services network system which included outreach, information and referral, counseling, health care, home care and crime prevention; designed demand responsive and employment transportation system;
- Managed comprehensive senior center program with 15 senior centers; administered health care, home care and outreach programs;
- Prepared and administered capital and operating budgets; operating budget \$1.3m; organized multi-fund budget including general fund, CDBG, CETA and special grants;
- Prepared proposals and received funding under the following: Title XIX of SSA, Title II, IV-A, V, VII, IX of OAA, CDBG, CETA, UMTA section 3 and 5;
- Prepared Reorganization Plan for separate Department on Aging; prepared appeal to AOA for Hartford designation of Planning and Service Area with full area agency on aging status.

SUPERINTENDENT OF RECREATION**Hartford, Connecticut****1974 – October 1978**

- Managed recreation division consisting of 125 full and part-time employees and facilities including parks, playgrounds, swimming pools, and gymnasiums;
- Managed comprehensive urban recreation program with over 200 activities; established creative mobile events; started a program of neighborhood involvement in provision of activities;
- Established service districts; reorganized recreation division to a decentralized neighborhood system, redefined classifications; established new positions;
- Prepared and administered current and capital budgets of \$3.3m, capital improvements \$750,000; participated in productivity analysis of Park Maintenance Program. Prepared projects and program proposals of CDBG, CETA, Titles II, III, VI-B, BOR, YIEEP, RSP.

DIRECTOR OF PARKS AND RECREATION**Red Bank, New Jersey (Population 20,000)****1968 – 1974**

- Managed Parks and Recreation Department with responsibility for all personnel and facility operations;
- Updated Parks and Recreation Master Plan; managed land acquisition and development programs; coordinated waterfront park development;
- Prepared applications for funding to BOR; Green Acres; expanded and rehabilitated park facilities;
- Refined purchasing process and instituted a rolling inventory and a triple check requisition system.

AFFILIATIONS

- American Leadership Forum
- Connecticut City Manager's Association
- Connecticut Conference of Mayors
- International City Management Association
- National Civic League
- National League of Cities
- New York State, City and County Manager's Association
- Massachusetts Manager's Association
- Michigan Manager's Association
- Michigan Municipal League
- Westchester County Municipal Official's Association

Anne Hewitt McAndrews

Trustee/ Deputy Mayor, Village of Larchmont --- 2000-2002, 2003-2011

Member, Planning Board, Village of Larchmont --- 1987-2000

Chair, Financial Advisory Committee, Mamaroneck School District --- 1996-1997

Member, Reassessment Study Committee, Town of Mamaroneck --- 1996-1998

Member, Zoning Board of Appeals, Town of Mamaroneck ---1981-1985

President, Larchmont/Mamaroneck League of Women Voters --- 1992-1997

Chair, Village of Larchmont Democratic Party --- present

Education

BA – Stonehill College

JD – Georgetown University Law Center

LLM (Tax) – Boston University School of Law

Personal Information

Married to John G. McAndrews, five children.

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BERTRAND C. SELLIER

Current Employment: Vandenberg & Feliu, LLP
New York City
Partner, 2010 - present

Proskauer Rose LLP
New York City
Partner, 2003 - 2010

Prior Employment: Solomon, Zauderer, Ellenhorn, Frischer & Sharp
New York City
Partner, 1987-2003
Associate, 1985-1986

Cleary, Gottlieb, Steen & Hamilton
New York City
Associate, 1981-1985

Description of Practice: Mr. Sellier has been involved in a wide range of litigations, arbitrations, criminal and administrative proceedings and mediations, both as a mediator and as counsel. Mr. Sellier has significant substantive experience in a number of areas, including the following:

Commercial litigation: cases involving insurance coverage, legal malpractice, accountants liability, contracts, distribution agreements, construction, entertainment, real estate, environmental and international commercial disputes.

Securities: primarily defense of federal securities claims, on behalf of corporations, officers and directors, as well as some work on behalf of institutional plaintiffs; litigation concerning securities trading issues; internal investigations; defense of criminal matters; general advice in connection with offerings.

Employment: defense of corporations, partnerships and individuals in cases involving alleged race, gender, age, disability and sexual preference claims; litigation concerning employment contracts, severance benefits and restrictive covenants; counseling in connection with employment and severance arrangements.

Banking: representation of banks and financial institutions, as well as some representation of creditors; litigation concerning guarantees.

Products liability: responsible for the defense of a major provider of medical products in numerous litigations pending in federal and state courts in several jurisdictions.

Bankruptcy: general representation of corporate debtor, including several litigations concerning ancillary matters; representation of creditors.

Partnerships and closely held corporations: representation involving litigation and advice to partnerships, partners, corporations and shareholders in law firms and businesses such as investment banking, advertising, shipping, air freight, public relations and nursing homes; litigation concerning valuation disputes; disputes arising out of the sale of a business.

Professional Activities: Member: The Association of the Bar of the City of New York (Committee on International Human Rights (1991-1994)); New York State Bar Association (Committee on Alternative Dispute Resolution (1994-1996; 2004 - present)); American Bar Association (Section of Dispute Resolution). Mediator, U.S. District Court, Southern District of New York, and Supreme Court, State of New York, New York County. Director, International League for Human Rights.

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Bar Admissions:	New York (1982); United States Court of Appeals for the Second Circuit (1983); United States District Courts, Southern and Eastern Districts of New York (1982)
Law School:	New York University School of Law J.D., cum laude, 1981
Honors:	Law Review; Pomeroy Prize; Order of the Coif
Undergraduate:	Wesleyan University, B.A., cum laude, 1975; Columbia School of International Affairs, M.I.A., cum laude, 1978.
Publications:	Co-author: "The Utility of Presidential Certifications of Compliance with U.S. Human Rights Policy: The Case of El Salvador," Wisconsin Law Review 825, 1982 Numerous articles in <u>The National Law Journal</u> and <u>The New York Law Journal</u> concerning various topics
Lectures & Speeches:	"Keeping to the Straight and Narrow: Ethical Issues for Civil Litigators", New York State Bar Association Program (2002) (program co-chair) "Impact of Recent Supreme Court Employment Cases", American Corporate Counsel Association Program (1998) (program chair) "Legal, Ethical and Strategic Issues Concerning Former Employees' Testimony", American Corporate Counsel Association Program (1998) (program chair) Numerous presentations to corporate legal departments concerning legal ethics and professional responsibility issues
Public Service:	Trustee, Village of Pelham Manor (2007 - present); Village of Pelham Manor Planning Board (2005 – 2007)

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Professional Experience

**June 1994 to Present Menken & Weingarden pllc, White Plains, NY.
(and predecessor firms)**

Corporate and commercial attorney, specializing in intellectual property, commercial law and information technology.

Projects have included copyright and trademark registration, licensing and advice, drafting and negotiation of transactional telecommunications agreements, stock and asset purchase agreements, business governance agreements and intellectual property licensing agreements, and representation of property owners in connection with technology infrastructure development.

Expertise in advice to clients regarding information technology includes global outsourcing, monetization of intellectual property, protection of corporate and employee data, and open source licensing.

Dec. 1995 to Dec. 1999 Village of Mount Kisco, New York

Village Attorney. Functions included preparation of legislation, management of litigation, supervision of outside counsel, and rendering advice to the Mayor, the Board of Trustees and the Village Manager. Projects included the negotiation of contracts with vendors, suppliers, and contractors for all Village products and services.

July 1990 to June 1994 BT North America Inc., New York, NY.

Associate General Counsel of US subsidiary of British Telecommunications, responsible generally for issues involving US operations and specifically for management of legal issues related to trading system, video conferencing and telephony divisions.

Sept. 1987 to July 1990 Ziff-Davis Publishing Company, New York, NY.

Associate General Counsel of magazine and database publishing company, responsible for management and licensing of software, trademarks and related intellectual property, and involved with acquisitions and divestitures of various divisions.

May 1983 to Sept. 1987 Pavia & Harcourt, New York, NY.

Associate in Italian-American law firm specializing in corporate and commercial law for primarily European corporate clients.

Sept. 1981 to May 1983 Spengler Carlson Gubar Brodsky Frischling, New York, NY.

Associate in firm specializing in securities and corporate law.

Current Affiliations

Admitted, New York Bar, 1st Department, 1982.

Admitted, U.S. District Court, Southern District of New York, 2006.

Zoning Board of Appeals, Bedford, New York (Chair since Jan. 2009, member since 2002).

Westchester County Planning Board (member since 2007).

Bedford Fire Department (Firefighter and EMT).

Participating member of various associations and organizations including New York State, Westchester and Northern Westchester Bar Associations, Information Technology Law Association, and Sierra Club.

Previous Relevant Affiliations

Founder, Computer, Telecommunications and Intellectual Property Committee, Westchester County Bar Association, 1996.

Board of Ethics, Mount Kisco, New York, 1995-1999 (ex officio member, as Village Attorney).

Byram Lake Committee, Mount Kisco, New York, 1995-1999 (ex officio member, as Village Attorney).

Conservation Advisory Council, Mount Kisco, New York, 1993-1995.

Mayor's Ad Hoc Community Relations Committee, Mount Kisco, New York 1996.

Historic Preservation Commission, Durham, New York, 1989-1993.

Scenic Roads Committee, Durham, New York, 1989-1993.

President and Board Member, Durham Valley Land Trust, Durham, New York, 1989-1995.

Education

New York University School of Law, J.D., 1981

Johns Hopkins University, B.A. with honors, 1977

Bologna, Italy, Center, School of Advanced International Studies, Certificate of Studies, 1975

Gary J. Zuckerman

z@zuckerlaw.com

29 Hillandale Road
Rye Brook, NY 10573

(212) 685 – 5968

Real Estate Attorney and Owner/Developer	1973 – Present
Kraus & Kraus Attorneys, New York	1970 – 1973
Village of Rye Brook	
Current Chair of Village Planning Board	2005 – Present
Member of Village AFFH Task Force	2011
Four-Term Village Trustee	1992 – 2000
Recipient, Distinguished Citizen Planner Award	
Westchester Municipal Planning Federation	2011
New York University School of Law, <i>LL.M.</i>	1970
Boston University School of Law, <i>JD</i>	1969
University of Michigan, <i>BA</i>	1966
March of Dimes, Northern Metro Chapter	
Board of Directors (Two-Term Board Chairman)	1994 – Present
League of Women Voters of Rye, Rye Brook, & Port Chester	
Board of Directors	2011 – 2012

GUY T. PARISI
720 Milton Road, Suite J1
Rye, NY 10580
Tel – (914) 921-5533
Fax – (914) 921-5410
Email – guyparisi@aol.com

April 2009 – Present

Private Practice of Law and Government Relations Consultant with office in Rye, New York

April 2003 – March 2009

Partner in the law firm, Parisi & Patti, LLP., specializing in all types of litigation

August 1993 – December 2009

Court Examiner – Westchester County, Appointed by the Presiding Justice, Appellate Division Second Department as specified in Section 81.32 of the Mental Hygiene Law.

November 1977 – March 2003

Private Practice of Law and Government Relations Consultant with offices in Westchester County.

February 1972 – November 1977

Private Practice of Law in Brooklyn, NY.

1991 – 1993

Contract Lobbyist for the Westchester County Board of Legislators

1980 – 1990

Legislative Counsel and Lobbyist for the Westchester County Board of Legislators. (Part time), responsibilities included drafting Westchester County Board's Legislative Package, obtaining sponsors for the Legislative and Budget items and attending Westchester County and State Legislative meetings in Albany during session for the purpose of coordinating state home rule legislation for Westchester County as well as serving as Parliamentarian to the County Legislature and giving informal opinions to the Legislature and its committees.

July 1984 – April 1985

Village Justice, Village of Port Chester

August 1978 – March 1983

Commissioner, New York City Alcoholic Beverage Control Board; one of four commissioners of the Board whose primary function is to recommend to the New York State Liquor Authority the issuance of revocations of licenses to sell alcoholic beverages at retail.

LEGISLATIVE EMPLOYMENT

January 1973 – July 1973	Research Counsel, Deputy Majority Leader, New York State Senate
January 1972 – March 1972	Research Counsel, New York State Senate Committee on Banks
January 1971 – March 1971	Research Clerk, New York State Senate on Committee on Banks
January 1969 – March 1969	Research Clerk, Joint Legislative Committee on Mental and Physically Handicapped

EDUCATION

C.W. Post College:	B.A. (cum laude) June 1968
Brooklyn Law School:	J.D. June 1971
New York University:	School of Law, Graduate Division Attended September 1972 – December 1975 Completed one-half of credit requirements For Masters of Law Degree

COMMUNITY

Former Director, Westchester Convention & Visitor's Bureau

Former Arbitrator, Better Business Bureau

Former Director, Port Chester – Rye Town YMCA

Former Radio Host, Inside Westchester & Rye Report

Two community radio programs of WVOX

Former Board of Directors, Southeast Consortium

PROFESSIONAL

Admitted to practice New York State Bar, February 1972, United States Supreme Court

Federal District Courts, Eastern and Southern Districts of New York

Licensed Real Estate Broker

Member, New York State Magistrates Association

Member, Westchester County Magistrates Association

Member, Columbian Lawyers Association of Westchester County
Westchester County Bar Association

Member of Government Affairs Professions (GAP)

ACADEMIC

Sept. 2008	Lectured CLE on Election Law sponsored by Pace Law School
April 2008	Lectured CLE on Election Law sponsored by NYS Bar Association
October 2007	Lectured CLE on Election Law sponsored by Pace Law School
October 2006	Lectured CLE on Election Law sponsored by Pace Law School
March 2005	Lectured CLE on Election Law sponsored by Westchester County Women's Bar Association
March 29, 2002	Lecturer for the Woman's Campaign School at Yale University
1992 – 1997	Adjunct Assistant Professor, Empire State College of SUNY; Courses: Business in the Political Process (Lobbying), Law of the Workplace and Business Law
1984 – 1989	Adjunct Assistant Professor, Pace University Lubin School of Business Department; Course: Federal Income Tax
1979 – 1980	Adjunct Assistant Professor, Marymount Manhattan College Business Department; Course: Federal Income Tax

Herman S. Geist

Personal Life

- Herman S. Geist was born in Hunts Point Hospital in the Bronx, NY on April 5, 1925
- Moved to Mount Vernon New York in 1936, attending the Mount Vernon Schools and graduating from AB Davis High School in June 1942
- Served during World War II from September 1943 – July 1946 as a Platoon Leader of Company F, 38th Infantry Regiment, 2nd Infantry Division; honorably discharged with the rank of First Lieutenant.
 - Awarded the Bronze Star & the Combat Infantry Badge
- Graduated with from NYU School of Commerce in September 1947 with a BS
- Graduated from NYU School of Law in September 1950 with a LLB
- Married Barbara Sue Wollman on June 25, 1950
- Has three children – Peggy, Gerald, and Andrew along with eight grandchildren

Career & Achievements

- Elected as Chairman of the Mount Vernon Zoning Board from 1952 – 1956
- Served as Westchester County Supervisor from 1966 – 1969
- Elected as Westchester County Legislator and served as the 1st Chairman of the Westchester County Board of Legislators from 1970 – 1973
- Chairman of Day Care Commission
- Chairman of Westchester County Bicentennial Commission
- Co-Founder of the Friends of Westchester County Parks
- Co-Founder of the Michaelian Institute for Public Policy and Management
- 25 Year Parliamentarian of the National Association of Counties
- Pro bono General Counsel of the New York State Association of Counties

Current Activities

- Parliamentarian of the New York State Association of Counties
- Serving as an advisor to the Office of the Chairman of the Westchester County Board of Legislators
- Current Secretary for the Westchester County Charter Revision Commission
- Currently serving as a Board Member for the following Non-Profit Organizations
 - Legal Aid of Westchester
 - Friends of Westchester County Parks
 - Westchester Medical Center
 - Pelletier Institute in Albany
- Attorney and Certified Public Accountant

**JANE MORGENSTERN
240 JUDSON AVENUE
DOBBS FERRY, NY 10522**

telephone 914-693-2398
fax 914-693-5638
e-mail alanjaney@verizon.net

IMPARTIAL LABOR ARBITRATOR

NYC Office of Collective Bargaining	1996-
NYC Transit Authority (Disciplinary Panel)	1996-
NYC Department of Education/United Federation of Teachers	2001-2005
NYC Housing Authority	2005-2009
NYC Health and Hospitals Corporation Personnel Review Board	1996-2003
American Arbitration Association Labor Panel	2010-

MAYOR'S OFFICE OF LABOR RELATIONS, CITY OF NEW YORK 1978-1996

Assistant Commissioner	1989-1996
Chief Grievance Review Officer	1983-1989
Hearing Officer	1978-1983

Citywide Task Force on Drug and Alcohol Testing
Personnel Task Force
City Productivity Council
Citywide TB Task Force
Managerial Issues Task Force
Staten Island Secession Task Force
Editor, *Around City Hall* (management newsletter)

DISTRICT COUNCIL 1707, AFSCME, Director of Political Action	1976-1977
CONTRA COSTA COUNTY EMPLOYEES ASSOCIATION, Business Agent	1972-1976
NYC DEPARTMENT OF SOCIAL SERVICES, Bureau of Child Welfare	1965-1970
LONG ISLAND UNIVERSITY, Public Relations	1961-1965

Public Member, Westchester County Rent Guidelines Board	2002-
Trustee, Village of Dobbs Ferry	1998-1999
Trustee, Dobbs Ferry Historical Society	2001-2007
Co-Chair, Inter-Village Continuing Education Advisory Board	2009-

B.A., Brooklyn College, English and American Literature	1961
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JEFFREY MITCHELL BINDER, ESQ.

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914.946.4344 (fax)
jbinder@jeffreymitchbinderlaw.com
www.jeffreybinderlaw.com

EXPERIENCE

Jeffrey M. Binder P.C. & Associates, White Plains, N.Y.

President and CEO, January 2001 – present

Owner of general practice law firm. Areas of practice include: government affairs, commercial and residential real estate transactions, closings, etc. Counsel to real estate development firms in matters involving NYS and local municipal, zoning, tax, building code, environmental and other land-use laws and regulations. Special counsel to the Town of Rye for tax certiorari matters.

Practice also involves handling court-assigned trustee and fiduciary matters via Surrogates and State Supreme Courts in Westchester and New York City.

Other areas of practice: immigration, matrimonial, and criminal defense. Trial experience NYS and local courts.

Sub-specialty in NYS Election Law – counselor to elected officials and bi-partisan political candidates in need of representation before boards of elections and other campaign commissions. Noteworthy case: Matter of Delgado, 97 N.Y.2d 425 (2002) (NYS Court of Appeals).

New York State Senate -- State Senator Roy M. Goodman, New York, N.Y.

Chief Counsel, November 1998 – January 2001

Primary legal advisor on state and local legislative, policy, and political matters in Albany and New York City offices. Counsel to Senate Committee on Investigations, Taxation, and Government Operations. Drafted legislation and resolutions for adoption by NYS Senate. Supervised staff of twenty persons including four attorneys. Lead investigative counsel for Senate Investigations Committee probes into sales tax reform and professional boxing reform.

Kings County District Attorney, Brooklyn, N.Y.

Assistant District Attorney, October 1996- October 1998

Lead Counsel in People v. Fred Harry -- conviction, attempted assault, August 1997.

Co-counsel in jury trial of People v. Odell Rogers -- conviction, 2nd degree murder, December 1997.

Presented over 75 felony cases to the Grand Jury for indictment (Grand Jury Bureau).

Prosecuted violations of NYS Criminal Code, NYC Environmental Control Law, and NYC Administrative Code.

New York City Council -- New York City Councilman Charles Millard, New York, N.Y.

Chief of Staff, December 1991-December 1995

Implemented legislative and community agendas – represented Councilman before community boards and groups. Researched and drafted legislation on budget, land use, public safety, education, and transportation.

EDUCATION

Fordham University School of Law, New York, N.Y.

Juris Doctor, 1996

Honors: *Dean's List*

Admitted: New York State, State of New Jersey and Southern District of New York

The Johns Hopkins University, Baltimore, MD.

Bachelor of Arts, 1988 Major: Political Science

Honors: *Dean's List*

Member: New York State Bar Association; Westchester County Bar Association; Friends of The North Castle Public Library; White Plains Housing Authority (past Board member).

Published: Authored several Op-Ed pieces topical articles on law, politics and public policy for local and regional newspapers and web-sites. (Copies available on request.)

Personal: Married, three children. Long-time resident of Armonk, NY. Competitive tennis player.

John W. Mattis

Biographical Sketch

Personal

- Age 64, born and raised in Erie, Pa., where his identical twin brother, Joe lives
- One daughter, Kristine (age 36), who is a Teaching Assistant and is completing her Ph.D. at the University of Wisconsin
- Resident of the Town of Cortlandt for 38 years
- Resident of Westchester County for 42 years

Professional Experience

- Currently employed as a Financial Advisor.
- Ten years experience with major Wall Street investment banks as an Institutional Analyst and Vice-President, during which time he frequently appeared on financial programs on TV stations like CNBC and CNN.
- Fifteen years experience in marketing and financial management positions (including budgeting and financial forecasting) with several Fortune 500 corporations.

Education

- M.B.A. in Finance from Fordham University in New York, NY.
- B.S. in Industrial Engineering from Gannon University in Erie, PA.

Activities and Interests

- Former Chairman, Town of Cortlandt Zoning Board of Appeals for 12 years.
- Member, Town of Cortlandt Economic Challenge Committee.
- Member, 2008 Westchester County Compensation Advisory Board.
- Former Trustee, St. Patrick's Church in Verplanck.
- Member, Pennsylvania Sports Hall of Fame committee
- Vice-Chairman, Hendrick Hudson Sports Hall of Fame committee
- Founding member, Friends of (Aaron) Copland House
- Former Board Member, Hudson Valley Chamber of Commerce
- Former Treasurer, VP and current Secretary, Coachlight Square Condominium Association.
- Former member, Westchester Citizens' Budget Advisory Committee
- Former member, Hendrick Hudson School District Financial Task Force.
- Former Treasurer, Frank G. Lindsey Parent-Teachers Club.
- Former District Leader, Town of Cortlandt Republican Party.
- Former sports writer for the Erie Times-News
- Former member, Baseball Writers' Association and U.S. Basketball Writers' Association
- Three-time marathoner. Baseball researcher for Roger Kahn, author of "*The Boys of Summer*". Also enjoys NASCAR racing, tennis, golf, and photography

JULIA POWERS KILLIAN

Julie graduated with a BS in Chemical Engineering from the University of Notre Dame in 1982. After graduating, she worked for Merrill Lynch Futures for four years as a Credit Analyst while pursuing an MBA in Finance from New York University Stern School.

Upon graduation in 1987, Julie worked at Citibank for nine years to raise their children and do volunteer work. She is a former six year Board Member of Part of the Solution (POTS), a soup kitchen and social services agency in the Bronx and was a Co-Chair of their recent \$6MM Capital Campaign. She is currently on the Board of School of the Holy Child, Rye, NY and New Yorkers for Growth (NYFG) a PAC dedicated to promoting growth in New York State through lower taxes, less regulation, and lower government spending. Additionally, she is also the Executive Vice President of the BLOHARDS (Benevolent Loyal Order of the Honorable Ancient Red Sox Diehard Sufferers), a New York based Red Sox fan club in its forty-eighth year.

Julie has lived in Rye, NY for twenty years with her husband Gary Killian. They have five children, ages eleven to eighteen.

Matthew P. Thomas

Telephone: (c) 914-980-2190 • (h) 914-967-9178

E-mail: matthewpthomas@verizon.net

151 Purchase Street • Rye, NY 10580

Executive Profile

Tenured senior executive with top-tier financial services firm possessing extensive experience in financial products and services origination, marketing and distribution strategy development across a variety of US and international market segments including taxable and non-taxable institutions, high net worth investors and retail distribution.

Core competencies include:

- ability to identify and capitalize on emerging market trends
- manage multi-million dollar budgets
- ability to work effectively across functional groups and assume role of influencer /advocate
- lead development teams

Professional Experience

Morgan Stanley

1998 – 2008

Global Wealth Management Group

Director of Financial Planning, Executive Director 2007 – 2008

Responsible for the development and integration of financial planning software solutions with a special emphasis on retirement income strategies, supporting 375 retail branch offices across the United States

- Determine product brand strategy and enhancements; drive adoption by financial advisors
- Manage \$6.2 million annual operating budget (\$1.2 million IT budget)
- Primary business liaison to government agencies, SROs, trade and professional certification groups
- Manage a group of 7 professionals

Product Development, Vice President 2004 – 2007

- Research & Development – co-creator of LifeViewsm (patent pending) – individual asset liability stochastic software which examines the relationship between current household assets, income and traditional and human capital-related liabilities and future financial wealth.
- Responsible for increasing brand recognition and product enhancements for \$20 billion proprietary mutual fund asset allocation wrap program business. Co-designed core asset allocation approach to unified managed account platform.
- Responsible for managing expenditure with external consulting and software vendor relationships (Morningstar, Ibbotson Associates, Barra.) Annual budget: \$5 million.
- Voting Committee Member – Consulting Services Group Investment Manager Due Diligence Committee which provides oversight and independent evaluation for Morgan Stanley's 131 institutional investment advisors who manage over \$120 billion in client assets.

Matthew P. Thomas

Professional Experience (continued)

Telephone: (c) 914-980-2190 • (h) 914-967-9178

E-mail: matthewpthomas@verizon.net

151 Purchase Street • Rye, NY 10580

Morgan Stanley Asset Management Group

Global Product Development, Vice President 1998 – 2004

- Global coordinator and senior team member focused on strategic planning and product development for investment management division. Set New Business Committee calendar and agenda, and coordinated work efforts of an 18 member global-wide development team.
- Served as lead analyst on Japanese defined contribution fact-finding tour (fall, 1999). Interviewed policy-setting officials within four Japanese Ministries. Conducted due diligence on potential Japanese strategic alliance partners. Member of firm-wide Japanese Defined Contribution Task Force.
- Held dual responsibilities as development coverage officer for both on-shore Japanese financial institutions and US based investment-only ERISA and foundations & endowment market segment. Utilized a variety of investment structures (ITM, FCP, OEIC, and SICAV) and strategies (traditional asset classes, structured products, hedge fund of funds, cash management) in designing specialized investment solutions.

Aegon, nv, - Diversified Investment Advisors

1994 – 1998

Investment Management Marketing, Director

- Researched and initiated development of strategic distribution alliances, focused primarily on qualified plan investment-only channels (TPAs, pension consultants, actuaries.)
- Created marketing and sales collateral for 19 investment options, integrated fundamental investment principles, discretionary asset allocation, efficient frontier modeling and portfolio optimization.
- Responsible for coordinating Hub & Spoke marketing initiatives including pricing, accounting issues, regulatory compliance and competitive intelligence. Key liaison to retirement plan consultant community and performance analysts.

Fidelity Investments, Institutional Services

1989 – 1993

Fidelity Advisor Funds, Associate Product Manager

- Developed and executed marketing programs, new product launches and product enhancements for the Fidelity Advisor Funds. Researched and developed competitive and industry analysis used by senior management for strategic business planning.
- Led internal software development team in the researching and implementation of third party mutual fund investment performance software package; drove overall brand creation and external distribution strategy to mutual fund distribution partners.

Education and Licenses

MBA, Suffolk University, Boston, MA 1995

BS, Business Administration, Stonehill College, North Easton, MA 1988

NASD Licenses: Registered Representative (Series 6 and 63)

**CURRICULUM VITAE
PAUL MEISSNER**

HOME

5 Fairfield Place
Yonkers, N.Y. 10705
(914) 969-5584

WORK

111 East 210th Street
Bronx, N.Y. 10467
(718) 920-7802

Extensive experience in health program development, marketing, project management, and program evaluation with emphasis on primary care activities in medically underserved communities.

PROFESSIONAL CHRONOLOGY

January 2009 – Present **Director, Research Program Development**
Office of Medical Research
Montefiore Medical Center
Bronx, NY

Responsible for research grant development for clinical, research and educational activities across the medical center and in collaboration with Albert Einstein College of Medicine faculty and staff.

September 2000-present **Program Director/Administrator**
Montefiore Medical Group / Bronx Community Health Network
Ryan White Part C program HRSA Grant Number - 2 H76 HA 00521-05
Bronx, NY

Responsible for program administration and coordination among central staff and staff located at nine community based facilities providing HIV early intervention services to approximately 1,100 HIV+ individuals and their family members.

October 1999 - December 2008 **Director of Program Development, Research and Grants Administration**
Department of Family Medicine and Community Health
Montefiore Medical Center
Bronx, NY

Responsible for program development for clinical and community service, research, and educational activities for the unified department at Montefiore and Albert Einstein College of Medicine. Functions include identifying potential funding sources, prepare and submit grant applications, departmental budgeting and administration of grant activities. Network Coordinator for New York City Research Improvement Networking Group (NYC RING) – a practice based research network which focus on urban, underserved populations.

1998 - 10/99 **Executive Administrator**
Department of Epidemiology and Social Medicine
Montefiore Medical Center
Bronx, NY

Administrative responsibility for department of over 70 individuals and 5 divisions. Functions include all budgetary development, oversight, reconciliation, and reporting for 40 grants totaling \$10 million. Funding sources include CDC, NIH, Robert Wood Johnson Foundation, United Hospital Fund, and various private foundations.

1990 - 1998 **Planner/Project Manager**

Montefiore Medical Group (formerly Ambulatory Care Network)
Bronx, N.Y.

Responsible for all planning and program development activities for a network of twelve community health centers, ten school based health centers, and a three-site substance abuse treatment program serving over 82,000 low income and minority persons in the Bronx and over 900 substance users. Total budget in excess of \$56 million, of which 20% was grant related.

1989 - 1990 **Research/Development Analyst**
Durham County Hospital Corporation
Durham, North Carolina

Successfully prepared grant proposals to demonstrate actions by which a community hospital could address indigent care issues as well as undertake source reduction and recycling activities. Prepared strategic plan for the hospital and its affiliates to provide health services to the elderly. Staffed a working group for projecting the need for acute-care hospital beds in North Carolina. Assisted in successful proposal to the North Carolina Department of Corrections for hospital to serve as the Preferred Provider Organization for state prison system.

1987 - 1989 **Independent Consultant**
Chapel Hill, North Carolina

Developed an evaluation component for the Durham County Health Department AIDS prevention program. Published an evaluation of a geriatric unit at Durham County General Hospital.

Developed program feasibility recommendations for a study by the Mexican AIDS coordinating agency (CONASIDA) to determine the cost of AIDS treatments in selected hospital and outpatient settings. Included data as well as cost methodology recommendations.

1986 - 1987 **Health Analyst**
International Resources Group, Ltd.
Washington, D.C.

Contributed to the development and application of cost finding methodologies for primary health care service delivery in Belize and Ecuador. Collaborated in a study comparing routine and campaign vaccination costs in Ecuador.

OTHER EXPERIENCE

Peace Corps Volunteer, Ecuador, 1980-1983, Water Supply and Sanitation program.

EDUCATION AND LANGUAGES

MSPH, Health Policy and Administration, University of North Carolina, 1986
BS, Marketing, University of Maryland, 1979

Certificate, 2000, Leadership Development, Northeast Regional Public Health Leadership Institute

Bilingual Spanish, working knowledge French and Portuguese.

PROFESSIONAL AFFILIATIONS

Board Member 2000-2010, President (2007-2009) Public Health Association of New York City
Board Member, Chair (2002-2004) Community Health Planning and Policy Development Section, APHA

CIVIC ACTIVITIES

Commissioner, 1996-present, City of Yonkers Commission on Human Rights
Board Chair, 1996-present Community Studies of New York, Inc.
Board Vice-Chair, Citiwide Harm Reduction, Inc.
Member, 1992 – present, NYC Ryan White Planning Council – various committees including Health Care, Integration of Care, Data and Policy

SELECTED PUBLICATIONS

Anna Flattau MD MSc MS; Manhal Olaywi MD; Paul Gaglio MD; Paula Marcus MD; **Paul Meissner MSPH**; Emily B.L. Dorfman LMSW; John Reinus MD: Social Barriers to Adult Liver Transplant Listing: Prevalence and Association with Program Characteristics Social Barriers to Adult Liver Transplant Listing: Prevalence and Association with Program Characteristics, submitted to Liver Transplantation manuscript identification number LT-11-019, accepted pending revisions January 2011.

Paul R. Marantz, MD, MPH, A. Hal Strelnick, MD, Brian Currie, MD, MPH, Rohit Bhalla, MD, MPH, **Paul Meissner, MSPH**, Peter A. Selwyn, MD, MPH, Elizabeth A. Walker, PhD, RN, Daphne T. Hsu, MD, Harry Shamoon, MD : Developing a multidisciplinary model of comparative effectiveness research within a CTSA", Academic Medicine, manuscript ACADMED-D-10-00087R2, accepted January 2011.

Carolyn Chu, M.D., M.Sc; Galina Umanski, M.S.; Arthur Blank, Ph.D.; **Paul Meissner**, M.S.P.H.; Robert Grossberg, M.D.; Peter A Selwyn, M.D., M.P.H.Co-morbidity-related treatment outcomes among HIV-infected adults in the Bronx, NY. Submitted to Journal of Urban Health, March 2010.

Kunins H, Gilbert L, Whyte-Etere A, **Meissner P**, Zachary M., Substance abuse treatment staff perceptions of intimate partner victimization among female clients. , J Psychoactive Drugs. 2007 Sep;39(3):251-7.

Pamela A. Mund, MD, Daliah Heller, MPH, **Paul Meissner**, MSPH, David W. Matthews, Michael Hill, FNP, NPP, Chinazo O. Cunningham, MD, MS Delivering Care Out of the Box: The Evolution of an HIV Harm Reduction Medical Program Journal of Health Care for the Poor and Underserved 19, (2008), 944-951.

Cunningham, C.O., Drucker, E., **Meissner, P.**, McCoy, K. and Selwyn, P. "The Perceived Need for Buprenorphine Treatment at a Primary Care Clinic in the South Bronx: A Market Survey" Addict Disord Their Treatment 2005;4: 125-126.

Meissner, P., Andolsek, K., Mears, P.A., and Fletcher, B., **Maximizing the Functional Status of Geriatric Patients in an Acute Community Hospital Setting**, *The Gerontologist*, November 1989.

Shepard D.S. et al., **The Cost-Effectiveness of Routine and Campaign Vaccination Strategies in Ecuador**, *WHO Bulletin*, April 1988.

Raymond, S.U., Lewis, B.A., **Meissner, P.** and Norris, J., **Financing and Costs of Health Services in Belize**, SUNY-Stonybrook, Health Care Financing in Latin America and the Caribbean, 1987.

Gomez, L.C. (Editor), **Costs of Basic Health Care Services in Ecuador**, SUNY-Stony Brook, Health

Care Financing in Latin America and the Caribbean, 1987.

Selected Presentations:

Domestic violence interventions in primary care: Policy implications. With Mary Zachary, American Public Health Association Annual Meeting, Philadelphia, PA November 2002.

Community Oriented Palliative Care: Early Lessons from the Bronx. With Francine Rainone, American Public Health Association Annual Meeting. Atlanta, GA. October, 2001.

Moderator, Practice Based Research Networks Peer Learning Group, Session #3, April 10, 2006, Marketing Your Network to Practices

PAUL WINDELS III
ATTORNEY AT LAW
187 GARTH ROAD
SCARSDALE, NEW YORK 10583

(212) 374 – 9260

pwindelsiii@aol.com

STATUS:

Attorney admitted to practice before the courts of New York State, the United States District Courts for the Southern, Eastern, and Northern Districts of New York and the Eastern District of Michigan, the United States Courts of Appeal for the Second and Third Circuits, and the United States Supreme Court

LAW OFFICE OF PAUL WINDELS III, SCARSDALE, NEW YORK, 2006 – Present

Managed all aspects of general practice with emphasis on corporate, securities, and commercial litigation and election law matters

PERRY & WINDELS, NEW YORK, NEW YORK, Partner 1989 – 2005

Involved in all aspects of two-partner firm specializing in corporate, securities, and commercial litigation. Primary duties included day-to-day responsibility over most of litigation matters at the firm, briefing and arguing motions, taking and defending depositions, trying arbitrations and evidentiary hearings, and handling election law matters. Between 2001 and 2005, Perry and Windels had an of counsel relationship with Drubner, Hartley & O'Connor in Waterbury, Connecticut.

BROWN & WOOD, NEW YORK, NEW YORK, Associate 1982 – 1989

Litigation Department (1983-89) – Drafted and researched briefs and motion papers, argued motions, took and defended depositions, prepared witnesses for deposition and trial, tried arbitrations, produced, examined, and analyzed documents.

Corporate Department (1982-83) – Prepared agreements and offering documents (including prospectuses and offering memoranda) relating to public and private offerings of asset-backed securities and obligations guaranteed by the United States or an agency of the United States.

SIGNIFICANT MATTERS HANDLED INCLUDE:

In re The Prudential Insurance Co. of America Sales Practice Litigation, 148 F.3d 283 (3d Cir. 1998), 962 F. Supp. 450 (D. N.J. 1997), member of five-person plaintiffs' Executive Committee. Took depositions, supervised review and analysis of documents, drafted and assisted in drafting of motion papers, participated in settlement negotiations, and oversight of claims process under settlement awarding rescission damages to approximately 1 million policyholders.

In re Colonial Realty Limited Partnership Litigation, 854 F. Supp. 63 (D. Conn. 1994), co-lead counsel for investors in real estate syndication litigation. Took and defended depositions of principal witnesses (including experts), briefed and argued motion papers successfully opposing motions to dismiss, for class certification, and for approval of class totaling approximately \$130

million (including \$90 from Arthur Andersen & Co.) together with reductions worth tens of millions of dollars of their purchase payment obligations to financial institutions.

TXO Production Corp. v. Alliance Resources Corp., 509 U.S. 443 (1993), *Fahnestock & Co. v. Waltman*, 935 F.2d 512 (2nd Cir. 1991); drafted *amicus* briefs of Securities Industry Association on unconstitutionality of punitive damages in general (*TXO*) and their unavailability in arbitrations (*Fahnestock*)

Charney v. North Jersey Trading Corp., 184 A.D.2d 409, 587 N.Y.S.2d 144 (1st Dep't 1992), Appointed Receiver of North Jersey Trading Corporation and liquidated its assets following dismissal of bankruptcy proceedings.

Securities and Exchange Commission v. Netelkos, 84 Civ. 0335 (SWK), United States District Court for the Southern District of New York, Appointed Special Master for the distribution of \$300,000 disgorgement fund to defrauded shareholders of Falcon Sciences, Inc.

Rodriguez de Quijas v. Shearson/American Express, Inc., 490 U.S. 477 (1989), *Shearson/American Express, Inc. v. MacMahon*, 482 U.S. 220 (1989), *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S. 213 (1985), wrote *amicus* briefs for Securities Industry Association urging that arbitration clauses in brokerage agreements be held enforceable.

Krinsk v. Fund Asset Management, Inc., 875 F.2d 404 (2d Cir. 1989), 715 F. Supp.472 (S.D.N.Y. 1988), 654 F. Supp. 1227 (S.D.N.Y. 1986), assisted in preparation of witnesses for trial and of expert report concerning economic benefit of mutual fund fees to fund sponsor, participated in drafting of briefs and memoranda.

Gary Plastic Packaging Corp. v. Merrill Lynch, Pierce, Fenner, & Smith, Inc., 903 F.2d 176 (2d Cir. 1990), *affirming* 119 F.R.D. 344 (S.D.N.Y. 1988), drafted memorandum of law in opposition to motion for class certification and brief on appeal.

DIRECTOR OF UNITED NATIONS DEVELOPMENT CORPORATION, 1997 – 2007 (Appointed by Governor Pataki):

U.N.D.C. owns and manages the U.N. Plaza office buildings used as offices by the United Nations. Participated in the privatization of properties that were unrelated to the core purpose of the U.N.D.C., served on Subcommittee on Security, and oversaw general operations of U.N.D.C.

PROFESSIONAL ASSOCIATIONS:

ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK:

Member (1986 to present) Special Committee on Election Law – Chair of Campaign Finance Subcommittee and principal author of report entitled *Towards a Level Playing Field – A Pragmatic Approach to Campaign Finance Reform*, 52 RECORD OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK 660 (1997)

Appointed to Special Commission on Campaign Finance Reform (1998 – 2000), which issued a report entitled *Dollars and Democracy, a Blueprint for Campaign Finance Reform*, Fordham University Press 2000.

THE FEDERALIST SOCIETY:

Member of Executive Committee – Free Speech and Election Law Practice Group (2008 – present).

OTHER COMMUNITY ACTIVITIES:

CIVIL WAR FORUM OF METROPOLITAN NEW YORK – Founding Trustee and Counsel of New York State – chartered education corporation devoted to study and discussion of the Civil War.

CRAGSWOLD, INC. – Member of Cooperative Board (2006-10) and President (2009-10).

EDUCATION:

J.D., Columbia University School of Law 1982 (Harlan Fiske Stone Scholar 1979-80 and 1980-81)

A.B. *cum laude*, Yale University 1979 (Ancient Greek); Alice Derby Lang Prize for Ancient History 1979.

Diploma *magna cum laude*, Groton School 1975; Classics Prize 1975.

RAYMOND W. BELAIR

Born: Washington, D.C., March 31, 1948

Married: June 24, 1972 to Sarah Anne Edmonds; three sons

Education: Assumption College, A.B. *cum laude*, 1970 Fordham University Law School, J.D., 1973 New York University Law School, study, 1977 - 1979 St. Joseph's Seminary, M.A., 2005 Graduate Theological Foundation, D Min, 2009

Employment: Attorney at Law: Senior Founding Partner, Belair & Evans, L.L.P., 1985 to date

Certified: Civil Trial Advocate, by National Board of Trial Advocacy, 1996 to present

Diplomate, of American Board of Professional Liability Attorneys, 1997 to present

Examiner: National Board of Trial Advocacy, 1999 to present

Rated: "A-V Preeminent" by Martindale Hubbell

Superlawyer by Thomson Reuters

Publications: Chapter 22: "The Physician Patient: Privilege In Medical Malpractice Litigation" from *Medical Malpractice in New York*, New York State Bar Association, 1993, 2000, 2009

"Everyone Knows That", New Oxford Review, December, 2008

"A Recent History of the Ordinary Universal Magisterium," *American Theological Inquiry*, January, 2008

Positions: General Counsel, Family First Foundation of Eastchester

General Counsel, Children First Foundation

Richard G. Wishnie
95 Apple Lane
Briarcliff Manor, NY 10510
Wishnie95@gmail.com
(914) 260-7571

Richard G. Wishnie was elected to the Westchester County Board of Legislators for six terms beginning in 1993. He retired in December of 2005. Legislator Wishnie represented the Town of Ossining and the Villages of Briarcliff Manor, Ossining, Croton-on-Hudson and a portion of the Town of Cortlandt. He served as Vice Chairman of the Legislature and Chair of the Board's powerful Committee on Budget and Appropriations. He was Chairman of the Committee on Public Safety and Criminal Justice, and a member of the Committee on Public Works, and the Committee on Labor. Wishnie also served on the Westchester County Criminal Justice Advisory Board and was Chairman of the Westchester County Emergency Medical Services Task Force.

As a County Legislator, Wishnie was a tireless advocate for the public good. He spearheaded passage of county budgets that included the largest property tax cut in county history. He also obtained additional funding for police officers, for the enhancement of the Fire Training Center, and for restoration of funding for daycare programs and community health centers. And he has instituted a number of reforms that make Westchester's budget more "user-friendly." An ardent supporter of educational opportunities, Wishnie initiated the opening of a satellite campus of Westchester Community College in Ossining that specializes in health care and state of the art biotechnology curriculums and has supported college satellites in Peekskill, Yonkers, and Mount Vernon.

He emerged as one of the Board's strongest advocates of tough but fair public safety measures. His fight to help survivors of sexual abuse resulted in approval of state and county funding for the SANE (Sexual Assault Nurse Examiner) program that provides rape victims with expert services 24 hours a day, and 365 days per year. His proposal to designate Westchester County as its own planning region for Emergency Medical Services (EMS) was approved by the New York State Legislature.

Wishnie was at the forefront of efforts to clean up the Kill Brook River in Ossining, ending years of environmental neglect and abuse. His series of public meetings on odor and smoke from the Ossining Sanitary Sewer Treatment Plant uncovered health-related concerns forcing the County to remedy the situation. At the Legislator's urging, the burning of sludge at the Ossining plant has permanently ceased.

He was the author of Westchester's countywide Electrical Licensing Law, and the Project Labor Agreement law, saving millions of dollars in construction costs for taxpayers.

Wishnie has an extensive record of public service in Westchester County. Prior to becoming a County Legislator, he served the Town of Ossining as Councilman from 1976-1979 and as Supervisor from 1979-1983. He has served as Chairman of the Ossining Open Door Health Centers, Westchester Health Source, the Ossining Volunteer Ambulance Corps, and the Ossining Red Cross Disaster Team.

He has also served as an Officer and Director of the Ossining Chamber of Commerce, President of the Ossining Jaycees, Director of the United Way of Northern Westchester, a member of the Briarcliff Manor Volunteer Fire Department, and a Town of Ossining Auxiliary Police Officer.

He is the former Director of Operations of the New York State Workers' Compensation Board (1983-88), and served by appointment of the Governor to a Temporary State Study Commission on Workers Compensation Special Funds.

Wishnie has been honored by numerous organizations for his service to the community. In January of 2006, the Village of Ossining named a public park in his honor. The Richard G. Wishnie Park is located at the juncture of Pleasantville and Orchard Road.

Wishnie was employed as Executive Secretary of the Association of Electrical Contractors, Inc. from 2003-2007. He had previous service with the Joint Industry Board of the Electrical Industry as Assistant to the Chairman from 1988 to 2003. He served as the industry's ombudsman for Worker's Compensation under the Alternative Dispute Resolution program where he mediated and adjudicated worker's compensation disputes. He presently is president of Richard G. Wishnie and Associates, a management consulting company

He serves as a member of the Westchester County Police Board and is Chairman of a multi-community effort to reduce government spending through consolidation and sharing of municipal services.

A graduate of the Harry Van Arsdale Jr. Center for Labor Studies, Empire State College, SUNY, he has a BS in Labor Studies. He resides in Briarcliff Manor with his wife Marilyn, the former principal of Hillside School in Hastings-on-Hudson. They have two married daughters, and four grandchildren.

DR. RONALD J. VOLINO
385 Kimball Avenue
Yonkers, New York 10704
(914) 522-6943 dr.ronaldjvolino@yahoo.com

PROFESSIONAL EXPERIENCE

PRIVATE PRACTITIONER, 1971 - Present

MT. VERNON HOSPITAL, Active Attending Physician, 2003 - Present

AMERICAN BOARD OF PODIATRIC SURGERY, Board-certified Diplomat

N.Y. PODIATRIC MEDICAL SOCIETY, TAPPAN ZEE DIVISION, President, 1984-1986; Board Member, 2008 - Present

EDUCATION

NEW YORK SCHOOL OF PODIATRIC MEDICINE, New York, New York

Doctor of Podiatric Medicine (D.P.M.), 1969

MANHATTAN COLLEGE, Bronx, New York

Bachelor of Science, 1963

COMMUNITY EXPERIENCE

YONKERS BEAUTIFICATION CONSERVANCY

- Co-Chair, 2008 - Present; Seven term past President
- Worked with the City government to create the Police and Fire Memorial in Untermeyer Park
- Helped to implement the "Welcome to Yonkers" signs
- Organized the annual "Garden Angel" Awards Dinner
- Worked with the City government to have flower planters installed on City sidewalks

NEW YORK DISTRICT OF KIWANIS INTERNATIONAL

- Distinguished Lt. Governor for the Bronx-Westchester South Division, 1987-1988
- Created and supervised community service programs
- Organized division wide senior citizen events, including an annual boat ride departing from Yonkers

EAST YONKERS KIWANIS

- Recording Secretary, 2008 - Present; Seven term past President
- Organized and supervised service projects aimed at helping underprivileged children

COMMUNITY AFFILIATIONS

ORDER SONS OF ITALY IN AMERICA, Member

YONKERS ANIMAL SHELTER COMMITTEE, Member

MALE GLEE CLUB OF YONKERS, Member

YONKERS FINE ARTS ORCHESTRAL SOCIETY, Member

AWARDS & DISTINCTIONS

CONGRESS OF ITALIAN AMERICAN ORGANIZATIONS, Man of the Year, 2005

YONKERS YWCA, Man of the Year, 2006

KIWANIS INTERNATIONAL, Hixson Fellowship Award, 2001

NEW YORK STATE SENATE, Proclamation Recipient, 2002

NEW YORK STATE ASSEMBLY, Citation Recipient, 2005

MAYOR OF THE CITY OF YONKERS, Proclamation Recipient, 1988 & 2002

YONKERS CITY COUNCIL, Resolution Recipient, 2002

N.Y. PODIATRIC MEDICAL SOCIETY, TAPPAN ZEE DIVISION, Podiatrist of the Year, 1985

STEPHEN I. MAYO

237 Winding Brook Road, New Rochelle, NY 10804-1920

914-806-0904 • smayo721@aol.com

Objective:

To use my marketing, business development and operations management skills to help an organization achieve and exceed its growth objectives.

Executive Summary:

- An entrepreneur and a seasoned senior executive who has helmed an international company, and who has 25+ years experience inventing, developing and marketing new and improved products for the industrial, home, office and general consumer markets.
- As a marketing and sales executive, grew volume of no-name generic lines into first branded series of ergonomically and environmentally appropriate work tools. Also launched successful marketing initiatives for a professional sports franchise.
- Significant involvement on the Boards of numerous non-profit organizations and government agencies.
- A licensed attorney with solid working knowledge of business-related law, including labor, employee relations, patents, contracts and antitrust.
- **Core competencies include:** Product Research, Development and Invention; Sales and Sales Management; Advertising, Public Relations and Promotion; Market Research; Strategic Alliances; Government Relations; International Business; Commercial Law.

Professional History:

Artistic Office Products, 1979 to 2003

Chief Executive Officer – 1997 to 2003; Vice President-Global Marketing - 1984-1996

Rose from the Executive Training program (1979) to Chief Executive of this global office supply manufacturing and distribution company. Brought the business to international standing as a leading manufacturer of writing surfaces and organizational devices.

- Aggressively approached each category's distributing leader: commercial contract, wholesale, mail order and finally retail superstores, where were achieved 100% market share.
- Introduced first ergonomically and environmentally responsible desk accessory line, raising profile of tired but sound categories. Named, packaged, marketed and created graphics and ad copy for the line, creating buzz in the industry and heightened visibility and respect for the company.
- Developed consumer sampling program for leading mail order and retail customers; gave free desk pads and writing surfaces to Staples floor desks in the majority of their locations. This promotion resulted in the distribution of desk pad products to 250,000 users.
- Opened the European market to our line of "Earth Smart" environmentally friendly products.
- Developed custom desk/work surface covering category where none had previously existed. This relatively small division evolved into the most profitable center of sales.

Consultant, Knight Resources (successor to Artistic Office Products), 2004 to 2007

Advised purchasers of Artistic Office Products on all areas of enterprise, including management, product conception & design, marketing and labor relations. Maintained industry prominence and market share for successor entity during transitional period and its expansion into new regions and channels of commerce.

Director of Marketing, White Plains Scorpions, 2007 to 2008

Recruited to enhance and improve the value of a privately-owned, for-profit professional soccer enterprise, and to create new and cost-effective ways to market their product to a growing customer base.

- Developed community-based promotional and merchandising initiatives to broaden the organization's reach beyond its traditional Spanish-speaking market focus to the European/American ethnic and African-American communities.
- Coordinated professional team with growing amateur leagues and new travel/recreation youth programs.
- Directed first public relations campaigns with area schools and camps. Developed the organization's first press kit and introduced a general advertising campaign in the local mainstream and ethnic print and broadcast media. .

Law Offices of Stephen I. Mayo, Esq., 2008 to present

Advise owners on management, maintenance, creation and expansion of their businesses, organizations and trades. Consult to executives and stakeholders on all phases of profit-making and profit enhancement, including administration, marketing/promotion and human resources, employee relations and labor contract negotiation and implementation.

Education:

J.D., DePaul University School of Law, 1976

Member of the Bar of the State of New York.

B.A., History, Syracuse University, 1973

Community and Other Activities:

Contributing writer, "Op ed" columnist, 1990 to present

Contribute essays and guest editorials to local media, including The Journal-News, Sound Report, Jewish Week Westchester Guardian, Westchester Tribune, Talk of the Sound blog/web site (www.newrochelletalk.com)

Talk show host, WVOX, Radio 1460-AM, www.wvox.com, 2002 to present

Producer and on-air host for "Take on the Issues," a twice-weekly, one-hour program about government/business

Board of Advisors, Syracuse University, E.S. Bird Library, Syracuse, NY 2010 to present

Board of Directors, JVL Wildcat Charter High School, Bronx, NY 2005 to present

Business counselor, Service Corps of Retired Executives, 2007 to 2008

Trustee, Health & Insurance Scholarship Fund International Brotherhood of Teamsters/210, 1985 to 2003

Board member, School Home Products Association, 1999 to 2002

(industry trade organization which contributes goods and funds to cash-poor school districts throughout the United States).

Commissioner, Planning Board, City of New Rochelle, NY, 1997 to 2000

Vincenza A. Restiano

10 Merriam Way
Yonkers, New York 10708
Home: 914-779-4257
Cell: 914-804-1252
Email: vresti@aol.com
LinkedIn Profile: <http://www.linkedin.com/in/vincenzarestiano>

Summary of Qualifications

Experienced elected official and member of staffs of the City of Yonkers and the State of New York. Highly motivated. Many years experience in government and in operations that can benefit private corporations.

Expertise in:

Intergovernmental Relationships
Understanding of Municipal Law
Contracts, bid and non-bid
Grants

Economic Development
Real Estate
Customer Service
Consumer Protection

Consumer Education
Lobbying
Management
Networking

**Director, Public Relations
Italian Academy Foundation, Inc.
Yonkers, New York**

January 2011 – present

- Assistant to the chairman of The Italian American Foundation, a non-for-profit corporation that pursues a unique form of cultural diplomacy presenting Italian realities to U.S. audiences.
- Responsible for the production of concerts, symposia and special events year round throughout the U.S. and Italy.
- Support the publishing of The Italian Journal working with Rome, Italy office.

**Director of Sales and Marketing
SmartPay Plus
Port Chester, New York**

2009 – present

- Sales manager in charge of all sales activities and personnel involved in sales and marketing for the company.
- Provides leadership to the day-to-day operations of the sales department, while maintaining focus on the company's strategic goals.
- Develops and/or maintains and improves business relations with all customers of the company.
- Establishes all performance goals
- Develops, with staff, the strategic marketing plan for the company.

**Licensed Sales Associate
Joseph Anthony Real Estate, Inc.
Eastchester, New York**

2005 – present

- Specializing in buying and selling of commercial real estate, drawing from 12 years experience as City Council President, as the Chair of the City Council Real Estate and Economic Development Committee, a member of the Community Development Agency and the Economic Development Zone.

**Assistant Director
Children First Foundation
Tri-State Headquarters
Eastchester, New York**

2009 – present

- Serves as advisor to the President and Board
- Assists in fundraising
- Responsible for maintaining all memberships and financial databases

Vincenza A. Restiano

Director Opportunity Downtown Programs Lower Manhattan Construction Command Center New York, New York

December 2005 – April 2007

- Created the Office of Opportunity Downtown in order to fulfill the Governor and Mayor's executive orders.
- Program ensured that minorities, women and veterans had unimpeded access to the employment, contracting, and subcontracting opportunities as part of the downtown rebuilding effort. To further these efforts created Lower Manhattan Opportunity Committee that brought together representatives from all agencies involved in the redevelopment of Lower Manhattan that fostered greater communication about ways to increase participation by minorities and women.
- Actively participated in Mayor Bloomberg's Committee on Construction Opportunity that increased representation of minorities, women and veterans in the construction industry.
- Created, managed and participated in events focusing on the inclusion of MWBE firms, women and veterans. This effort included capacity building, and assisting firms to hire union labor.
- Established Advisory Groups; one consisted of union women in the various trades and the other, leaders in the construction industry to help further goals of opportunity.
- Worked with the Borough of Manhattan Community College to create a management career ladder for minorities and women all within the unions.
- Worked with entities that created apprenticeship programs for entry into the unions.
- Wrote and managed grants to promote inclusion.
- Researched and identified barriers to participation, and discriminating work conditions.

Constituent Services Representative for New York State Senate

July 2005 – December 2005

- Community Outreach and legislative research for Senator. Representation of the Senator at community events.

Director Office of Licensing, Consumer Protection City of Yonkers Yonkers, New York

- Administered service to consumers through licensing, inspections, enforcement, complaint investigation and education.
- Accomplished the updating of code – code had not been modernized for twenty years – for licensing and consumer protection, better serving constituents of Yonkers. Restructure of office, maximizing efficiency.
- Foster a new working relationship with Yonkers Police Department.
- Strengthened administrative hearings for code violators, admonishing and assuring timely corrective action. Increased revenue by licensing of businesses, bringing Yonkers up to standards with neighboring cities, i.e. Sidewalk Café. Supervised maintenance of validity of weights and measures devices adhering to federal, state and local law mandates.

President Yonkers City Council Yonkers, New York

January 1992 – December 2003

- Elected six times as City Council President. Presided at all meetings of City Council; supervised staff and acted as ombudsperson responding to individual constituent requests and community concerns.
- Served as member of Community Development Agency and Economic Development Zone which promoted economic development.
- Responsible for all major projects in the City of Yonkers, for all environmental reviews of these major projects and all zone changes in the City
- Served as member of Board of Contract and Supply, which reviewed all bid and non-bid contracts.
- Created the Office of Council President serving as the first in 50 years
- Led Council concentrating on serving the public with stability, accountability.
- Chaired Economic Development and served on all standing committees; Budget, Education, Municipal Operations, Legislative Codes, and Community Services.
- Created Office of Inspector General which assures integrity in government.

Vincenza A. Restiano

Customer Service Analyst
New York State Thruway Authority
Suffern, New York

March 1999 – December 2003

- Performed general administrative duties under direction of Division Director.
- Maintained a database of customer complaints for the purpose of tracking the nature of complaints looking for trends and identifying resolution steps.
- Produced and prepared written material, design of monthly newsletter, "Reflections".
- Helped create and implement a Safety Incentive Program that realized reduction in injuries and lost work days.

Special Assistant to the Commissioner
New York State Department of Environmental Conservation
New Paltz, New York

1998 – 1999

- Developed and conducted a new program to improve public understanding of the Hudson River Estuary Management plan which included a seminar held at Hudson River Museum
- Represented department on MetroNorth's railroad crossing and fishing access project
- Served as an interagency liaison with local governments, the public and environmental groups.

Education

Bachelor of Science, Fordham University
New York, New York

Community Activity

1st Vice Chair, Westchester Conservative Party
Chair, Yonkers Conservative Party

Lighthouse Catholic Media, Division Manager

Volunteer Assistant Teacher, St. Joseph's CCD Program
Bronxville, New York

- New York Archdiocese's Ladies of Charity
- Former Public Representative, Yonkers Emergency Control Board
- Past President, Aquehung Women's Club
- Past President, Longvale Homeowner's Association
- Past President, First Police Precinct Community Council
- Former Member, The Women's National Republican Club
- Former Member, Junior League of Bronxville
- Past President, Saint Joseph's Mother's Club
- Former Member, National Organization of Italian Women
- Former Member, League of Women Voters

Awards

- National Italian American Foundation Award
- Committee for the Advancement of Italian American Culture Outstanding Achievement Award
- Grand Marshal, Yonkers 2001 Columbus Day Parade
- City of Yonkers 1998 Women's Equality Day Public Service Award
- Yonkers Police Captains, Lieutenants & Sergeants Association, Woman of Distinction in Government Award
- Italian Hospital Society Distinguished Service Award
- America Committee for Shaare Zedek Medical Center in Jerusalem Humanitarian Award

Florence McCue

Westchester County resident Florence McCue represents the best in labor unionism for the Westchester/Putnam Central Labor Body. Steadfastly visible at community, charitable, and political events she is advocating on behalf of fellow union members. She has been an activist since she began her teaching career in the Yonkers Public Schools and continues to work tirelessly, defending the rights of teachers and all workers.

Knowing that an injury to one is an injury to all, she strives to level the playing field for the middle class and is a voice for those in need of someone to speak on their behalf. As a participant of a NYSUT Labor-Religion delegation to El Paso, Texas and Ciudad Juarez, Florence helped in the fight against labor abuses both in the United States and around the world. She was honored to receive the 2011 "Labor Service Award".

Florence graduated from the City College of New York with a MS in Special Education and Teaching and received her JD from Pace University School of Law. She currently resides in Elmsford, NY.

Derickson K. Lawrence

October 2013

Bio

Mr. Lawrence has over 33 years of experience in banking, management consulting, technology and executive management. He is the founder and CEO of MarketView Resources, Inc., a financial services firm that delivers banking products for middle-market clients in eight states including Alaska.

Before developing MarketView Resources, he held executive-level and CEO positions at two Internet start-ups. He was formerly a management consultant with KPMG LLP, and a director at the Gartner Group. At KPMG he was involved with several strategic organizational and operational streamlining engagements. Specifically, those engagements focused on working with the clients' executive teams to help their organizational workforces adapt to change; and help their businesses remain competitive. At the Gartner Group, he participated and led the "CIO Boot Camp" initiative, a program aimed at mentoring and coaching current and potential CIO's of Fortune 100 companies. The program has now blossomed into the renowned Gartner CIO Academy. Additionally, while with the Gartner Group, Mr. Lawrence was involved in creating financial valuations of Fortune 100 companies and managed several domestic technology initiatives including that of the New York Stock Exchange and the Federal Reserve.

Mr. Lawrence has been active in the Westchester County community for the past 25 years. From 1989 to 1993, he served as a Trustee of the YWCA of Yonkers; and from 1989 to 1991, he served as the Chairman of the Mount Vernon Housing Authority. He currently chairs the Westchester County Home Owners' Coalition and Westchester County Crime Stoppers.

His OpEds have been published in the New York Times, Westchester Business Journal, The Journal News (Lohud.com), the Westchester Tribune and the Westchester Guardian.

His graduate studies include an MBA in international finance from Zicklin School of Business and the Mergers & Acquisitions Program at Columbia University. Mr. Lawrence received his BS in Electrical Engineering from Howard University.

He is married with two grown daughters and a three-year old son.