

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 department 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