

**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.