

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. Pierpont 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.