

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

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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.

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. Mr. Gatta stated that 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 the municipalities 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.

Mr. Zuckerman stated that 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 reevaluation. Mr. Zuckerman stated that under the old re-val municipalities retained their old assessors. He continued that it would be possible to conduct a countywide re-val 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 re-val 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 ones 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 re-val and proposed centralization were two separate but equally important issues. The re-val 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. Mr. Sellier 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.

Mr. Thomas asked about 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.