

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: Ken 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 are 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 form 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.