

**WESTCHESTER COUNTY BOARD OF LEGISLATORS
COMMITTEE ON BUDGET & APPROPRIATIONS MEETING
JOINT WITH COMMITTEE ON GOVERNMENT OPERATIONS
AND COMMITTEE ON COMMUNITY SERVICES
MINUTES JANUARY 29, 2009**

MEMBERS B&A: Chair: Jose Alvarado; Legislators: Abinanti, Harckham, Jenkins, Kaplowitz, Rogowsky, Ryan

MEMBERS G.O: Chair: Ken Jenkins; Legislators: Bronz, Harckham, Rogowsky, Ryan

MEMBERS COMMUNITY SERVICES: Chair: Lois Bronz; Legislators: Abinanti, Alvarado, Jenkins, Ryan

IN ATTENDANCE: **Finance/BPS:** Jim Ferrara, Ann Marie Variano; **WCC:** Rick Hyland; **CBAC, LWVW:** Barbara Strauss; **Law:** Carol Arcuri, Stacey Dolgin-Kmetz, Hillary Raimondi; **CEO:** Andrew Neuman, Bill Randolph; **BOL:** Katie Delgado, Ray Indelicato, Louise Gantress, Sally Schecter, Tara Bernard, Melanie Montalto

Chair Alvarado called the Budget & Appropriations Committee to order at 12:50 p.m. with a listening quorum only.

#A60, AST Golf Services: owe unpaid licensing fees amounting to \$20,141. AST Golf is a concern that operated food, refreshment and a catering concession at Mohansic, Maple Moor and Saxon Woods. There was \$13,600 due at Mohansic Golf Course and \$6,541 due at Maple Moor. AST claimed that because they did not receive a renewal of the license at Saxon Woods, they operated the other two concessions at a loss and therefore could not pay the amount due. The concession at Mohansic is currently being operated by Saxon Restaurant Corporation and Maple Moor is being operated by Billy Casper Golf LLC. Legislator Kaplowitz asked if it would be possible to have the contracts for the concessions of all of the golf courses expire at the same time so it would be more of an incentive for the companies bidding on the concessions. On the motion of Legislator Kaplowitz, seconded by Legislator Rogowsky, with a quorum now present, the motion was carried by a vote of 5-0 (Alvarado, Jenkins, Rogowsky, Kaplowitz, Harckham).

A132, Compromise of Claim - County Employees: There were three individuals involved in this claim. Each one successfully sued and the County is accepting approximately two-thirds of the lien amount which will total \$9003.78. On the motion of

Legislator Jenkins, seconded by Legislator Kaplowitz the motion was passed by a vote of 6-0 (Alvarado, Jenkins, Rogowsky, Kaplowitz, Harckham, Abinanti).

A133 Compromise of Claims – Police Officer: While on duty a police officer fell into an open trap door in a restaurant and injured his finger. He successfully sued and as a result we were able to receive approximately two-thirds of the expenses which amounted to \$2338.79. On the motion of Legislator Jenkins, seconded by Legislator Harckham, the motion was carried by a vote of 6-0 (Alvarado, Jenkins, Rogowsky, Kaplowitz, Harckham and Abinanti).

A134 Settlement of Debt-NewYourGrocer: Yourgrocer.com rented space at 375 Executive Blvd. from February 2000 to December 31, 2003. Twenty thousand square feet was for a warehouse and 3,750 was for office space at an annual rent of \$196,250. On December 27, 2001, Yourgrocer.com vacated the premises with twenty-four months left on the lease for a balance due of \$392,500. On December 28, 2001, the County closed on the purchase of 375 Executive Blvd and acquired the lease. Yourgrocer.com claims they closed their operation in November 2001 and was \$2 million in debt. In 2002 the president and chairman of Yourgrocer.com formed NewYour Grocer.com. In 2003, the County commenced an action against the two companies in the amount of \$392,500 less \$172,750 that was mitigated by the County. In May of 2002 the County was able to lease a portion of the warehouse to Brandon of Westchester for a total of \$153,000 and in 2003 the County Bureau of Purchasing paid \$18,750 in rent which brought the unpaid rent down to \$219,750. NewYourGrocer has minimal assets but has offered to settle the case for \$15,000 and there is a question if the County can hold NewYourGrocer liable for Yourgrocer. Legislator Abinanti pointed out that it was very important in the future for the Board to scrutinize any and all real estate contracts that the County enters into. On the motion of Legislator Abinanti, seconded by Legislator Jenkins, the motion was carried by a vote of 6-0 (Alvarado, Jenkins, Rogowsky, Kaplowitz, Harckham, Abinanti)

A147 Retention of Outside Counsel: The County Attorney's office is limited as to what could be discussed because of active litigation brought by a class of retirees. In 2004 when the CSEA contract was negotiated, health benefits were changed and this applied not only to active members but retirees who retired between the years 1993 and 2004. This has always been the County's practice. The retirees sued and judgment was made in favor of the retirees. The County Attorney would like to appeal the decision and reopen the case inasmuch as they feel there were a number of irregularities in the original arguments by Ohrenstein and Brown and they would like to hire Jackson, Lewis for a sum not to exceed \$65,000. Legislator Abinanti said the Legal Sub-Committee recommends that an affirmative recommendation by the Budget Committee be given to the Board. He went on to say there were 2 issues – one is the legal issue which the County Attorney raised and our obligation to protect the County from wrongful judgment because the way the case was argued. And the second issue is what is our policy when it comes to retirees and their health benefits. Legislator Abinanti suggested this be signed

out of Committee without prejudice and it be discussed in both caucuses. Legislator Harckham asked what would the amount be if we did not appeal. He was told \$3.6 million. On the motion of Legislator Abinanti, seconded by Legislator Rogowsky the motion was passed by a vote of 6-0 with all the legislators signing it out without prejudice (Alvarado, Jenkins, Rogowsky, Kaplowitz, Harckham, Abinanti).

Item A175 Compromise of Claims: joint with Community Services - Chair Bronz called the Committee on Community Services to order at 1:42 p.m. There are six County employees, spouses or family members that were injured. According to the terms of the POMCO Plan, the County is to be reimbursed if he/she obtains a recovery. On the motion of Legislator Jenkins, seconded by Legislator Harckham for Budget & Appropriations, the motion was carried by a vote of 7-0 (Alvarado, Jenkins, Rogowsky, Harckham, Kaplowitz, Ryan, Abinanti). On the motion of Legislator Jenkins, seconded by Legislator Abinanti for Community Services, the motion was carried by a vote of 5-0 (Bronz, Jenkins, Ryan, Abinanti, Alvarado) On the motion of Legislator Abinanti, seconded by Legislator Jenkins, Community Services was adjourned at 1:45 p.m.

A199 Resolution to Set a Public Hearing - Lease Agreement for WCC Satellite Campus: Chair Jenkins called the Government Operations Committee to order at 1:45 p.m. On the motion of Legislator Abinanti, seconded by Legislator Jenkins for Budget & Appropriation to begin the discussion and on the motion of Legislator Bronz and seconded by Legislator Harckham for Government Operations. Legislator Abinanti pointed out that we have a Real Estate Sub-Committee and that they should have a chance to look at the lease. Rick Hyland who is the director of the satellite said he had negotiated for 18 months with the landlord and had involved our County Attorney's Rick Cashman and Don McCloud. Legislator Rogowsky said that we would be paying \$50 a square foot. Mr. Hyland said the building was going to be eliminated and he had been asked to consider other places by the landlord and internally. He looked at downtown Yonkers and the Elizabeth Seton campus and other places and he determined that this was the best location. Legislator Rogowsky said that the first priority should be the accessibility but we should also be breaking even. The majority of the students come from downtown Yonkers and from Mt. Vernon. Legislator Rogowsky pointed out that we still have two years on our lease and the landlord should be accommodating us. Legislator Abinanti would like this looked into by the Real Estate sub-committee. He would like to see what else is out there, what others are paying in the shopping center, what the building looks like and the fact that the landlord could move us again in five years. Legislator Bronz would like Mr. Hyland to meet with the Real Estate sub-committee to discuss what sites he has looked at and Legislator Harckham would like us to look into our buying a building vs. leasing. On the motion of Legislator Abinanti, seconded by Legislator Rogowsky for Budget & Appropriation to hold a public hearing the motion was carried by a vote of 6-0 (Alvarado, Jenkins, Ryan, Rogowsky, Harckham, Kaplowitz) and on the motion of Legislator Bronz, seconded by Legislator Harckham for Government Operations, the motion was carried by a vote of 5-0 (Jenkins, Bronz, Ryan, Harckham, Rogowsky).

#A200 Lease Agreement -WCC Satellite Campus was not acted upon.

A202 Authorizing Political Subdivisions to Make Purchases or Contract for Services:

Jim Ferrara, the County's purchasing agent said the goal is to repeal Act 49 of 1976 to establish new procedures to utilize county contracts and make it less onerous for political subdivisions and be consistent with General Municipal Law (GML). It would allow political sub-divisions in New York State to make purchases through contracts that have been awarded by the County. Chair Jenkins asked for a motion to allow the discussion to continue. On the motion of Legislator Jenkins, seconded by Legislator Harckham for Budget & Appropriations and on the motion of Legislator Bronz, seconded by Legislator Harckham for Government Operations the discussion continued. GML 103 does permit joint cooperative contracts subject to County Law 408a. 408a says the County Board can authorize purchases by any political subdivision by adopting rules and resolutions under which purchases may be made. Act 49 also stated that officers and employees would be designated who could sign requisitions and authorize the Purchasing Agent to require the local government to provide the County with insurance coverage as may be required by the County. Mr. Ferrara has received calls from the various municipalities asking why this is necessary. The current act would repeal Act 49 and establish a new procedure. Currently we utilize New York State OGS contracts and none of this is required. Legislator Jenkins questioned why we were doing away with the insurance coverage and should we be concerned. Mr. Ferrara has questioned Risk Management and they have indicated that the insurance is not necessary. The motion was carried for Budget & Appropriations by a vote of 6-0 (Alvarado, Jenkins, Ryan, Rogowsky, Kaplowitz, Harckham) and for Government Operations 5-0 (Jenkins, Bronz, Ryan, Rogowsky and Harckham).

On the motion of Legislator Rogowsky, seconded by Mr. Harckham, the minutes were accepted as amended.

On the motion of Legislator Jenkins, seconded by Legislator Harckham, item A131 was received and filed.

On the motion of Legislator Bronz, seconded by Legislator Harckham, the Government Operations Committee was adjourned at 2:15 p.m. and on the motion of Legislator Kaplowitz, seconded by Legislator Harckham, the Budget & Appropriations Committee was adjourned at 2:15 p.m.