

**MINUTES OF THE MEETING OF THE
COUNTY OF WESTCHESTER
BOARD OF ACQUISITION AND CONTRACT
HELD ON THURSDAY, FEBRUARY 23, 2012 AT 11:00 A.M.**

Acting County Executive
Vice Chairman, Board of Legislators
Comm. - Public Works & Transportation
Deputy County Attorney
County Executive's Office
Budget
Deputy Commissioner, Dept. of Finance
Board of Legislators
Board of Legislators
Board of Legislators
League of Women Voters
Secretary BAC
Assistant Secretary BAC

Kevin Plunkett
Lyndon Williams
Jay Pisco
Jim Robertson
Christine Sculti
Patricia Haggerty
Dennis Kelly
Anne Reasoner
Thomas Staudter
David Tubiolo
Barbara Strauss
JoMary Vieira
Joan Cocciardi

Mr. Plunkett presided.

Mr. Plunkett said, "For the record the County Executive is out of the County and has asked me to chair the meeting as his Deputy County Executive. I note that the Vice Chair of the Board is here, Mr. Lyndon Williams. Welcome Mr. Williams. The chairman is likewise unavailable and I see the Commission of Public Works. Thank you Mr. Pisco for being here."

Mr. Plunkett said, "Before we begin the meeting, has the Secretary checked the reception area to make sure that all members of the public who wish to attend this meeting have been invited into this conference room?"

Ms. Vieira confirmed that she had done so.

Mr. Williams said, "First I would like to place on the record that I believe that Mr. Pisco's participation as a member of this board is unlawful as the BOL did not approve his appointment and I would like to read a statement for the record.

'First, the Deputy County Executive's conclusion that "it is clear from the BOL's proceeding on February 13, 2012, that no vote was taken to 'reject' any of the seven appointments proposed by County Executive Robert P. Astorino," is belied by the public record of the Board meeting on February 13, 2012. All seven appointment items concerning including the appointment of the Commissioner of Department of Public Works and Transportation died on the floor and cannot "be revisited at subsequent meetings of the Board of Legislators.

Second, there is no legal requirement nor does the Deputy County Executive's cite to any legal authority in his letter which mandates that the Board affirmatively vote to reject a proposed appointment. Indeed, the case law in this County is clear that it is the failure to obtain an affirmative vote by the required majority that "terminates" an appointment.

Finally, it is a well settled principal of law in this state that each department of government should be free from interference, in the lawful discharge of duties expressly conferred, by either of the other branches. It is also a well settled principal of law that separation of powers principles generally precludes courts intruding upon the policy-making and discretionary decisions that are reserved to the legislative and executive branches. Given these fundamental principles, particularly the fact that the Courts of this state refrain from intruding upon the internal workings of a legislative branch, any attempt by the Deputy

County Executive to dictate that manner in which this Board must exercise it's legislative functions in this or any other matter is clearly contrary to law.'

"That is the end of my statement and I would like to put this statement in the record as well as two items. This is a certified communication to the County Executive from the Clerk and Chief Administrative Officer of the BOL with respect to the appointment and the vote of the BOL officially. I would like to put that in the record. Please note I am delivering to Mr. Plunkett 3 copies, dated 2/16/12 addressed to Mr. Astorino from Tina Seckerson Clerk and Chief Administrative Officer. I also want to officially put in the record I am going to give 3 copies to the DCE reflective of the statement that I just read into the record. In some reform as well as in detail of the basis of the BOL position on this issue and reiterate that any vote taken today in this meeting by the Commissioner of DPW would be an unlawful act which would render the passage of any resolution or act of this board null and void ab initio."

Mr. Plunkett responded, "Thank you Mr. Williams. I note that the record will reflect acknowledging receipt of the 3 and handing them to the Clerk of the Board. I do acknowledge the receipt of your exhibit 2 what you're calling a synopsis and also the complete statement that you made today. It appears to have a legal citation. It appears to be the first response that I have received and seen since my letter to the Clerk and Chief Administrative Officer, Ms. Tina Seckerson on 2/17/12. Let me just state for the record for the position of the County Executive that after consultation with the County Attorney's office and prior to my letter dated 2/17/12 which I will read into the record, it was clear to us and it was clear to the County Attorney that the action taken by the BOL on 2/13/12 was not a rejection of the appointments, including that of Commissioner Pisco, proposed by the County Executive. The only vote that was taken was the vote to refer the matter to a committee although that referral was failed on that particular day, referrals can be revisited at subsequent meetings of the BOL. The matter that Ms. Seckerson sent to the County Executive that you put in the record as exhibit 1, which was the letter of 2/16/12 which is duly noted was received and was reviewed with the County Attorney's office and my letter of 2/17/12 which I will have copies made and distributed to you and asked to be made part of the record was a result of Ms. Seckerson's letter to the County Executive. Having received today the first response to my letter of 2/17/12, which appears to be an unsigned, undated legal memorandum of some type from somebody."

Mr. Williams said, "I can sign it if you like."

Mr. Plunkett asked, "Did you do the research?"

Mr. Williams said, "I am submitting on behalf of the Chair who sits on this Board."

Mr. Plunkett asked, "Did you do the research? Do you really want to sign something that you didn't do the research on?"

Mr. Williams replied, "I am submitting that. It is in the record and it is noted in the record."

Mr. Plunkett said, "I understand, but you said you wanted to sign it. If you want to sign it I will give it to you to sign. If you would rather just have for the record we will leave it in the record."

Mr. Williams said, "I think the record as established this is an exhibit and I think it stands on its own as part of the record."

Mr. Plunkett said, "I just note that it is unsigned, nobody knows who did this research. Whether it was done by an intern, a lawyer or whether it was done by a staff member or whatever."

Mr. Williams said, "I think the research speaks for itself."

Mr. Plunkett said, "I haven't read it. I just haven't seen it until you just presented it."

Mr. Williams asked, "One point of propagation on the statement you made that the County Executive and your position is that the matter was not rejected by the Board, even though there was a vote taken, because the matter can be revisited by the Board. Can you verify what you mean? Is it by resubmission to the Board? Is that what you are referring to?"

Mr. Plunkett responded, "No, this matter was discussed with the County Attorney. There was no formal vote on the rejection of any of the individuals for the positions; particularly in this case we are talking about Commissioner Pisco. The matter that was on the agenda was simply a referral to a committee. It was not a vote on the rejection of any particular person. According to the County Attorney that does not amount to a rejection of the individual in question, as in this case Commissioner Pisco, to amount to him not being able to be duly qualified and serving after he filed his oath."

Mr. Williams said, "It was a rejection of the matter going to the Committee that would consider whether he would be submitted to the Board, and therefore, if it does not get to a committee it does not get back to the Board and that vote was clearly taken and your position, I imagine, is that you are ignoring the vote taken by the duly elected legislature not to refer that appointment to a committee."

Mr. Plunkett said, "That is incorrect. I am telling you that because there was no vote to reject the appointment, a formal vote to reject the appointment, that the action taken by the Board does not prohibit the Commissioner from serving as Commissioner. So whether you want to put words in our mouth or whether you don't, our view is there is no vote to reject the Commissioner's appointment according to the County Attorney. The Commissioner continues to serve in this position."

Mr. Williams asked, "Let me ask you. Did the County Attorney render an opinion on this matter in writing to the County Executive?"

Mr. Plunkett responded, "I don't have to answer that."

Mr. Williams said, "You just cited the County Attorney's opinion according to the County Attorney. Let the record reflect that Mr. Plunkett, the deputy county executive's reliance upon an opinion rendered by the County Attorney, such opinion is being refused to be provided to the Board of Legislators as to what the basis of this legal opinion is."

Mr. Plunkett said, "Have you read my letter? Because if you did, Mr. Williams, you would see that I copied the County Attorney on this."

Mr. Williams said, "No. I understand that."

Mr. Plunkett said, "So this matter was fully discussed with the County Attorney before my letter was written. He has been copied on the letter that I wrote to Ms. Seckerson and copied to Chairman Jenkins and to the Chief of Staff of the County Executive."

Mr. Williams said "I was merely asking for a copy of the opinion that he rendered to you. Since he is the County Attorney presumably for the Board of Legislators as well as to the County Executive and this matter involved a matter with respect to the operations of the Board of Legislators, I would think that the County Attorney, if he is rendering an opinion, would understand that both clients would need to be notified, since he is supposedly representing both of our interest and you have expressed to me that he rendered an opinion on the record but you refuse to share that opinion with us, that written opinion with us. I would imagine that it is in writing and I just want the record to reflect that."

Mr. Plunkett said, "You can appreciate as a lawyer you have an attorney client relationship with the County Attorney. We do too."

Mr. Williams said, "I would like the record to reflect that also. That there is apparently a conflict because of the attorney client privilege that the County Executive has with the County Attorney, that creates some kind of a conflict, I would imagine. That prevents the County Attorney's opinion from being provided to the Board as to why the Board's vote does not prevent the Deputy Commissioner of Public Works from serving on this committee."

Mr. Plunkett responded, "Two things – One is nobody said there was a written opinion so you leapt to that position. Second, it is not the Deputy Commissioner of Public Works, he is the Commissioner of Public Works, and so you made your statement."

Mr. Williams said, "I stand corrected on your characterization."

Mr. Plunkett asked, "Are you ready to proceed?"

Mr. Williams replied, "Yes I am."

Mr. Plunkett said, "I understand that Commissioner Pisco wishes to make a motion."

Mr. Pisco said, "Thank you. I move to add three items to today's agenda. The first two items are urgent because of the scheduled special election that will occur in Yonkers on March 20th. Accordingly, I propose to add item 49 (ID #24801) – an award to the low bidder - Ron's Trucking Corporation, an MBE, in the amount of \$48,280 for 2012 Primary, Special and General Election Moving Services and Storage of Handicapped Accessibility Equipment Zone 6 – Yonkers. In addition, I propose to add item 50 (ID#24802) – an award to the low bidder - Ron's Trucking Corporation, an MBE, in the amount of \$85,780 for 2012 Primary, Special and General Election Moving Services of Voting Machines, Supply Bags and Privacy Booths, Zone 6 – Yonkers. Finally, I propose to add item 51 which is urgent to ensure continuous solid waste removal services, as the current agreement expires at the end of this month. This is an award to the low bidder – R&S Waste Services, LLC for contract 12-201 Countywide Solid Waste Removal Services in the amount of \$1,164,960."

Mr. Plunkett said, "I second the motion. All those in favor of adding items 49, 50 and 51 to the Agenda please say Aye."

Mr. Williams said, "We are asking to hold over item 51."

Mr. Plunkett replied, "We'll get there. The vote is on whether or not we will add them to the Agenda. I voted yes, Mr. Pisco voted yes. How do you vote, Mr. Williams?"

Mr. Williams said, "First of all I don't believe that the motion is proper so I want to go on the record that Mr. Pisco could not make that motion since he is not properly seated as a member of this committee. I will be glad to move the motion for items 49 and 50 so it will be added to the agenda. The two items 49 and 50."

Mr. Plunkett responded, "That is not the motion that is on the table. The motion that is on the table was made by Mr. Pisco and seconded by me. How do you vote on that?"

Mr. Williams responded, "I vote no."

Mr. Plunkett said, "The motion carries 2-1. The Secretary shall add items 49, 50 and 51 to the agenda. Now let's get to the agenda."

Mr. Williams said, "I think we are holding over item 51."

Mr. Williams said, "Just to put on the record again that the votes that were taken at this meeting, which include the vote of Mr. Pisco, should not have been counted and, therefore, it is the Board's position that items that have been ruled by the Chair as carried or passed were invalid, legally invalid."

Mr. Plunkett responded, "We've had that discussion and we thank you for your renewed comments. For the record reiterate my comments to his recent comments."

Acquisition & Contract. Minutes of the meeting of 2/16/12 and the SEQR Review for agenda items.

J. Vieira

Mr. Plunkett moved to receive and file the foregoing minutes and SEQR review, which were duly seconded and approved.

1. (24593) **Board of Legislators** – Amend its agreement with the Young Women's Christian Association of Yonkers, by extending the expiration date from 6/30/12, for a new termination date of 9/30/12.

K. Jenkins

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

2. (24380) **Finance** - Amend the short form agreement with Unique Business Solutions, Inc., for consulting services in connection with the processing of County personnel employment transactions, by extending the termination date from 10/31/11 to 5/31/12.

A. Berg

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

3. (24482) **Information Technology** - Enter into an agreement (IT-1229), with Language Line Services, Inc., Monterey, CA, for a dial up telephone service offering on-demand foreign language interpreter services, from 2/29/12 – 8/9/12, for a total not to exceed amount of \$17,000, under the listed terms and conditions.

M. Beirne

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

4. (24483) **Information Technology** - Enter into an agreement (IT-1228) with Sprint Solutions, Inc., Reston, VA, for "direct connect" and other cellular telephone services on behalf of various County Departments, from 2/26/12 – 2/25/15, for a total not to exceed contract amount of \$324,000, under the listed terms and conditions.

M. Beirne

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

5. (24419) **Information Technology** - Amend the license agreement (IT-915) with NBC Universal, Inc., NYC, for the operation of radio equipment at the Grasslands Radio Tower in Valhalla, to extend the termination date to 5/31/12, and increase the revenue amount by \$22,911.56.

Beirne/Mahon

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

6. (24420) **Information Technology** - Amend the license agreement (IT-1008) with Nextel of New York, Inc., Overland Park, KS, for the operation of radio equipment at the Public Safety Radio Tower in Hawthorne, to extend the termination date to 5/31/12, and increase the revenue amount by \$11,622.18.

Beirne/Mahon

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

7. (24421) **Information Technology** - Amend the license agreement (IT-1007) with Sprint Spectrum L.P., Overland Park, KS, for the operation of radio equipment at the Public Safety Radio Tower in Hawthorne, to extend the termination date to 5/31/12, and increase the revenue amount by \$10,877.91.

Beirne/Mahon

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

8. (24510) **Information Technology** - Amend the license agreement (IT-842) with Entergy Nuclear Indian Point 2, LLC, for the operation of radio equipment at the Grasslands Radio Tower in Valhalla, to extend the termination date to 5/31/12, and increase the revenue amount by \$10,635.70.

Beirne/Mahon

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

9. (22907) **Planning** - Enter into an agreement with Crompond Crossing Housing Development Fund Company, Inc., through the Federal HOME Investment Partnership Program to supplement the installation and/or construction of eleven (11) affordable ownership units at 3372 Old Crompond Road in the Town of Yorktown, in the amount not to exceed \$500,000.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

10. (24448) **Planning** - Amend the agreement with Westhab, Inc., for the Homeless Prevention and Rapid Re-Housing Program, in order to decrease the dollar amount by \$107,119, to a new total of \$1,002,406.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

11. (24485) **Planning** - Amend the agreement with the City of Yonkers for the construction of the development known as 330 Riverdale Avenue, in order to change the expiration date from 1/1/11 to 11/30/11.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

12. (24486) **Planning** - Amend the agreement with Housing Action Council, Inc., to provide counseling services to assist with the implementation of the Neighborhood Stabilization Program, in order to change the contract expiration date from 2/28/12 to 2/28/14.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

13. (24518) **Planning** - Amend the agreement with Community Capital Resources Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 1357 Howard Street, Peekskill, in order to change the expiration date from 12/31/11 to 9/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

14. (24520) **Planning** - Amend the agreement with Suburban Green Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 4 Morris Place, Yonkers, in order to change the expiration date from 12/31/11 to 9/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

15. (24521) **Planning** - Amend the agreement with Suburban Green Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 175 Saratoga Avenue, Yonkers, in order to change the expiration date from 12/31/11 to 9/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

16. (24523) **Planning** - Amend the agreement with Suburban Green Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 30 South Thirteenth Avenue, Mount Vernon, in order to change the contract expiration date from 12/31/11 to 9/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

17. (24524) **Planning** - Amend the agreement with Suburban Green Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 431 South Fifth Avenue, Mount Vernon, in order to change the contract expiration date from 12/31/11 to 9/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

18. (24531) **Planning** - Amend the agreement with Community Capital Resources Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 1400 Main Street, Peekskill, in order to change the contract expiration date from 12/31/11 to 9/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

19. (24532) **Planning** - Amend the agreement with Suburban Green Housing Development Fund Corp., for the acquisition and rehabilitation of the foreclosed property located at 141 Morningside Avenue, Yonkers, in order to change the contract expiration date from 12/31/11 to 6/30/12.

E. Buroughs

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

20. (24404) **Planning** - Enter into two agreements with Teatown Lake Reservation, Inc., **1)** to purchase a conservation easement over approximately 59 acres located along Spring Valley Road and Route 134 in the Town of Yorktown and the Town of New Castle, for an amount not to exceed \$1,200,000, and **2)** to operate and maintain trailways and parking areas of certain County-owned parks, under the listed terms and conditions.

Burroughs/Mahon

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

21. (24373) **Social Services** - Enter into an agreement with North American Family Institute, Inc., Danvers, MA, to provide the Parenting with Love and Limits Program, to include parent education and group therapy as well as family therapy for parents and adolescents in foster care, from 2/15/12 – 2/13/13, for a total not to exceed amount of \$242,770.

K. McGuire

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

22. (24422) **Social Services** - Enter into an agreement with Family Services of Westchester, Inc., for the provision of the Re-Entry Plus Program providing responsible parenting and employability preparedness training services to men who were or are involved in the Criminal Justice System, from 3/1/12 – 2/28/13, in an amount not to exceed \$45,000.

K. McGuire

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

23. (24487) **Social Services** - Amend an agreement with different vendor agencies for Title XIX Personal Care Services under the Social Security Act, is hereby amended in order to correct the name of the agency from Broadway Home Care, Inc., to Broadway Health Care Staffing, Inc.

K. McGuire

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

24. (24691) **College** – Contract No. WCC-12-906, for Physical Education Building Renovation/Improvements, Westchester Community College, Valhalla, New York. Awarded to Low Bidder, Mengler Mechanical, Inc., Brewster, in the amount of \$3,883,300, and approval of Mezz Electrical Services, Inc., Hawthorne, as a subcontractor. (10 bids)

J. Hankin

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

25. (24402) **Health** - Enter into agreement with the New York State Department of Health to accept continued funding for the Early Intervention Program, in the amount not to exceed \$631,692, from 10/1/11 – 9/30/12.

S. Amler

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

26. (24497) **DPW/Transportation** - Enter into Agreement #11-934, with McGimpsey & Associates, Mahopac, for engineering and design services in connection with the Robert's Lane Regulator Rehabilitation, Yonkers Joint Plant Sanitary Sewer District, City of Yonkers, New York, for a total compensation of \$99,750, from 3/15/12 – 12/31/14, and approval of the two (2) listed subconsultants.

J. Pisco

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

27. (24498) **DPW/Transportation** – Contract No. 11-220, for Countywide Water Treatment Services, Westchester County, New York. Authority to advertise for bids.

J. Pisco

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

28. (24499) **DPW/Transportation** – Contract No. 12-208, for Service Contract for Sanitary Sewer Line Maintenance, Various Locations, Westchester County, New York. Authority to advertise for bids.

J. Pisco

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

29. (24500) **DPW/Transportation** – Contract No. 12-209, for Moving Services, Various Locations, Westchester County, New York. Authority to advertise for bids.

J. Pisco

Held Over By Board of Legislators – 2/16/12

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

30. (24517) **CE/Office for Women** - Enter into an agreement with The Child Care Council of Westchester, Inc, from 1/1/12 – 12/31/12, for the provision of the following services, **1)** upgrading the quality of infant/toddler child care programs; and **2)** improving the quality of child care programs in general, for the amount of \$190,000.

D. Balistreri

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

31. (24603) **CE/Office for Women** - Enter into an agreement with the YWCA of White Plains and Central Westchester, Inc., to provide child care in the Richard A. Daronco Court House in White Plains, from 1/1/12 – 12/31/12, for an amount not to exceed \$46,505.

D. Balistreri

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

32. (24606) **CE/Office for Women** - Enter into an agreement with the YWCA of White Plains and Central Westchester, Inc., to provide child care in the Court House in New Rochelle, from 1/1/12 – 12/31/12, for an amount not to exceed \$69,471.

D. Balistreri

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

33. (24690) **Information Technology – OVER BY BOARD OF LEGISLATORS.** Request authority to amend the license agreement (GS-873) with New York SMSA Limited Partnership, d/b/a Verizon Wireless, Bedminister, NJ, for the operation of radio equipment at the Public Safety Headquarters Radio Tower in Hawthorne, by extending the termination date to 5/31/12, and increasing the revenue amount by \$42,069.04.

Beirne/Mahon

34. (24434) **County Attorney – OVER BY BOARD OF LEGISLATORS.** Request authority to amend an agreement with Robert J. Ponzini, Esq., for the provision of Hearing Officer Services in connection with hearings under Sections 72, 73 and 75 of the New York State Civil Service Law, from 11/1/10 – 10/31/11, in an amount not to exceed \$20,000, by retroactively extending the term of the agreement from 11/1/11 – 2/14/12.

R. Meehan

35. (24636) **County Attorney – OVER BY BOARD OF LEGISLATORS.** Request authority to amend an agreement with Computer Sciences Corporation, to provide software maintenance for the County's risk management software system, in order to extend the term an additional (2) years, to a new termination date of 3/13/14, for a total cost of \$55,821.72, under the listed terms and conditions.

Meehan/Beirne

36. (24637) **Planning** - Pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy and Procedures, to exempt from procurement an agreement with Housing Action Council, Inc, for the provision of technical assistance to not-for-profit developers of fair and affordable housing in Westchester County.

E. Buroughs

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

37. (24638) **Planning** - Enter into an agreement with Housing Action Council, Inc., through the Westchester County Planning Department's Operating Budget, to provide technical assistance to not-for-profit developers of new fair and affordable housing projects, in an amount not to exceed \$100,000, from 1/1/12 – 12/31/12.

E. Buroughs

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

38. (24599) **Emergency Services** - Renew the agreement with Hawthorne Fire District to participate in specialized training and activities with the Grasslands Fire Brigade and fire suppression services, from 1/1/12 – 12/31/12, for an amount not to exceed \$13,000.

J. Cullen

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

39. (24611) **Emergency Services** - Renew the agreement with the Valhalla Fire District to participate in specialized training and activities with the Grasslands Fire Brigade and fire suppression services, from 1/1/12 – 12/31/12, for an amount not to exceed \$45,000.

J. Cullen

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

40. (24150) **Social Services** - Enter into an agreement with The Food Bank for Westchester, Inc., to assist non-profit food distribution centers in collecting, storing and distributing food and providing technical assistance to all qualified non-profit anti-hunger programs that distribute this food free of charge to the ill, needy and infants in their immediate community, from 1/1/12 – 12/31/12, for an amount not to exceed \$72,563.

K. McGuire

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

41. (24574) **Social Services – OVER BY BOARD OF LEGISLATORS.** Request authority to enter amend a 3/18/11 agreement with Caring for the Homeless of Peekskill, Inc. for the operation of a 24-hour adult shelter program for up to nineteen (19) homeless single men and women at a facility known as Jan Peek House, Peekskill, from 2/1/11 – 1/31/12, in an amount not to exceed \$747,708, to enter into a subcontract with Grace Church Community Center, Inc., for the provision of management consulting services.

K. McGuire

42. (24586) **Social Services** - Enter into an agreement for Model Protocols for Submission and Processing of Facilitated Enrollment Applications for United Healthcare Community Plan in order to address the manner in which Facilitated Enrollment in Medicaid applications for children under the age of 19 and adults between the age of 19 and 64 are made, for a term commencing upon full execution and continuing indefinitely until terminated by either party with the approval of New York State Department of Health, at no cost to the County.

K. McGuire

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

43. (24310) **Mental Health – OVER BY BOARD OF LEGISLATORS.** Request authority to enter into 1) a grant agreement with the United States Department of Justice to receive a grant in the amount of \$443,188 for a family-based offender substance abuse treatment program, from 10/1/11 – 9/30/13; 2) an agreement with St. John's Riverside Hospital, to provide pre-and post-release services targeted to substance-abusing offenders who are parents, for an amount not to exceed \$354,128, from 10/1/11 – 9/30/13; and 3) an agreement with Social Policy Innovations, Inc., to provide program evaluation services for the aforementioned pre- and post-release services, for an amount not to exceed \$47,950, from 10/1/11 – 9/30/13.

G. Mitchell

44. (24640) **Mental Health** – Enter into an agreement with Jewish Community Center on the Hudson, Inc., in the amount of \$25,000, from 1/1/12 – 12/31/12, to provide services to families and their children on the autism spectrum, mental retardation and other developmental and physical disabilities.

G. Mitchell

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

45. (24577) **Health** - Enter into an amendment with the NYSDOH, for the Tobacco Enforcement Program Grant, in order to increase the not to exceed amount by \$21,613, for a new total not to exceed amount of \$436,093.

S. Amler

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

46. (24643) **Health** - Enter into contract to accept funding from the New York State Department of Health for the Infertility Prevention Project grant, from 1/1/12 – 12/31/12, for a not to exceed amount of \$32,999.

S. Amler

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

47. (24597) **Public Safety** - Enter into an agreement with Aero Dynamix, Inc., to perform bi-annual inspections of six (6) night vision goggles to be used in the Bell 407 Helicopter, from 1/1/12 – 12/31/16, for a total not to exceed amount of \$9,000, under the listed terms and conditions.

G. Longworth

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

48. (24625) **DEF** - Enter into a grant agreement with the State of New York as part of the Household Chemical Waste Collection Program for the State DEC 2011 Fiscal Grant Year.

T. Lauro

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

49. (24801) **DPW/Transportation** – Contract No. BOE 12-06, for 2012 Primary, Special and General Election Moving Services and Storage of Handicapped Accessibility Equipment, Zone 6 – Yonkers. Award to Low Bidder, Ron's Trucking Corporation (MBE), Yonkers, in the amount of \$48,280. (2 bids)

J. Pisco

Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

50. (24802) **DPW/Transportation** – Contract No. BOE 12-12, for 2012 Primary, Special and General Election Moving Services of Voting Machines, Supply Bags and Privacy Booths, Zone 6 - Yonkers. Awarded to Low Bidder, Ron's Trucking Corporation (MBE), Yonkers, in the amount of \$85,780. (2 bids)

J. Pisco

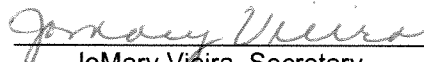
Mr. Plunkett moved the resolution, which was duly seconded and approved by Mr. Plunkett and Mr. Pisco. Mr. Williams voted in the negative.

51. (24727) **DPW/Transportation – OVER BY BOARD OF LEGISLATORS.** Contract No. 12-201, for Countywide Solid Waste Removal Services, Westchester County, New York. Award to Low Bidder, R&S Waste Services, LLC, Harrison, in the amount of \$1,164,960. (3 bids)

J. Pisco

This meeting was recorded and an electronic copy of the minutes is on file with the Board of Acquisition and Contract.

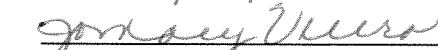
There being no further business, the Chair declared the meeting adjourned. All approved resolutions are on file electronically with the Board of Acquisition and Contract.



JoMary Vieira, Secretary

I have reviewed the foregoing minutes and have found them to be correct as written.

Dated 2/29/12



JoMary Vieira, Secretary

Tina Seckerson

Clerk & Chief Administrative Officer



February 16, 2012

TO: Hon. Robert P. Astorino
County Executive

FROM: Tina Seckerson *TJS*
Clerk & Chief Administrative Officer

RE: ID# 4952- Commissioner of Public Works & Transportation

The attached communication was submitted to the Board of Legislators for consideration for Committee referral at the February 13, 2012 Board meeting.

The motion to receive, file and refer the item to the Committee on Appointments was defeated by a vote of 8-9 and is being returned. Therefore, the Board of Legislators has rejected the appointment of Jay T. Pisco as Commissioner of the Department of Public Works and Transportation.

Cc: Hon. Kenneth Jenkins, Chairman
Lila Kirton, Chief of Staff, BOL
Kevin J. Plunkett, Deputy County Executive
George Oros, Chief of Staff, C.E.'s Office



Robert P. Astorino
County Executive

January 26, 2012

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Members of the Board of Legislators:

In accordance with Section 110.21 of the Laws of Westchester County, and upon the recommendation of the Transportation Board, transmitted herewith for your adoption is a resolution to confirm the appointment of Jay T. Pisco as Commissioner of Public Works and Transportation for a term to commence on January 23, 2012.

I have made a thorough review of Mr. Pisco's credentials, experience and job performance, and have determined that his appointment as Commissioner of Public Works and Transportation is in the best interests of the Department of Public Works and Transportation and of the County, generally. It should be noted that Mr. Pisco does not meet the residency requirements set forth in the Laws of Westchester County §194.181, and therefore, the County Board must approve his appointment by a two-thirds vote.

Therefore, I most respectfully recommend and urge your Honorable Board to adopt the attached resolution confirming the appointment of Jay T. Pisco as Commissioner of Public Works and Transportation for a term to commence January 23, 2012.

Sincerely,

A handwritten signature in cursive script that reads "Robert P. Astorino".

Robert P. Astorino
County Executive

RPA/nn

RESOLUTION 2012 – 1/20 - #3

WESTCHESTER COUNTY TRANSPORTATION BOARD
APPOINTMENT OF JAY T. PISCO AS COMMISSIONER

WHEREAS, Section 131.01 of the Westchester County Charter states that the head of the Westchester County Department of Public Works and Transportation shall be the Commissioner of Public Works and Transportation; and

WHEREAS, Section 131.01 of the Westchester County Charter states that the Commissioner of Public Works and Transportation shall be appointed on the basis of his administrative experience and his qualifications for the duties of office and shall be legally qualified to practice engineering in the State of New York; and

WHEREAS, Jay T. Pisco, P.E. is legally qualified to practice engineering in the State of New York and has the professional experience necessary to serve as the Commissioner of Public Works and Transportation; and

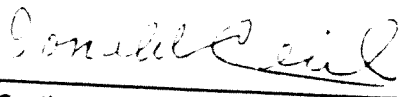
WHEREAS, Section 241.311 of the Westchester County Charter requires that the Transportation Board recommend to the County Executive the appointment of a commissioner prior to submission to the County Board, and

WHEREAS, the members of the Transportation Board met with and interviewed Jay Pisco at its meeting on January 20, 2012, and

WHEREAS, Mr. Pisco's responses to the Board indicate his ability to undertake the powers and duties of the Commissioner of Public Works and Transportation as conferred upon him in Sections 131.11 and 241.321 of the Westchester County Charter,

NOW, THEREFORE BE IT RESOLVED that the Westchester County Transportation Board recommends to County Executive Robert P. Astorino, the appointment of Jay T. Pisco, P.E. as the Commissioner of the Westchester County Department of Public Works and Transportation.

Adopted this 20th day of January, 2012



Donald Cecil
Chairman

RESOLUTION - 2012

TO THE COUNTY BOARD OF LEGISLATORS
OF THE COUNTY OF WESTCHESTER, NEW YORK

WHEREAS, the County Executive having appointed Jay T. Pisco as Commissioner of the Westchester County Department of Public Works and Transportation for a term to commence January 23, 2012, subject to confirmation of this Board; and

WHEREAS, the Transportation Board having recommended said appointment in accordance with the Laws of Westchester County; and

WHEREAS, since Mr. Pisco does not meet the residency requirements set forth in the Laws of Westchester County §194.181, this appointment must be approved by a two-thirds vote of the County Board of Legislators; now therefore it is

RESOLVED, that said appointment be and is hereby confirmed.

Dated: 2012
White Plains, New York



Robert P. Astorino
County Executive

January 23, 2012

Jay T. Pisco, P.E.
71 East Forest Trail
Holmes, N.Y. 12531

Dear Mr. Pisco:

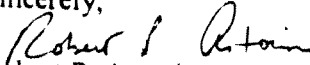
It is my pleasure to appoint you as Commissioner of the Westchester County Department of Public Works and Transportation for a term to commence immediately. Please be advised that your appointment as Commissioner is subject to confirmation by the Westchester County Board of Legislators. Furthermore, the Laws of Westchester County §194.181 requires the head of every county department to be a citizen of the United States and a resident of the county for a period of at least five years prior to appointment, unless the County Board approves such appointment by a two-thirds vote. Consequently, since you do not meet the residency requirements, your confirmation will require a two thirds vote of the County Board of Legislators.

As you know, the Westchester County Department of Public Works and Transportation is responsible for the construction, alteration and repair of all buildings, structures and other public works under the jurisdiction of the County as well as for overseeing all matters related to transit and public transportation in the County.

Pending your confirmation as Commissioner of the Westchester County Department of Public Works and Transportation by the Board of Legislators and in accordance with New York State law, you must take and file an oath of office in the Office of the Westchester County Clerk. Please be advised that your failure to take and file such an oath within thirty days of the date of this appointment letter, or within thirty days of the commencement of your term of office, will result in the office of Commissioner of the Westchester County Department of Public Works and Transportation being deemed vacant. If you have any questions with regard to these legal requirements, please contact the County Attorney.

I look forward to working with you in this capacity.

Sincerely,


Robert P. Astorino
County Executive

RPA/nn

Jay T. Pisco, P.E.

71 East Forest Trail Holmes, New York 12531 (914) 441-8159 jay.pisco@yahoo.com

Objective

I am seeking a management opportunity with new challenges where I can apply my technical and managerial skills.

Education

M.S. - Computer Science, Iona College
B.M.E. - Mechanical Engineering, Manhattan College

Registrations

Professional Engineer: New York, New Jersey, Michigan, Maryland and Connecticut

Summary

A professional engineer and executive manager with over 30 years of experience working on municipal and private projects in New York, New Jersey, Connecticut, Maryland, Louisiana, and Puerto Rico.

As an executive manager, responsibilities involve playing a key role in many projects, including directing and participating in technical efforts; developing and monitoring project schedules and budgets; coordinating and supervising the project team; providing quality control of documents and deliverables prepared for the projects; attending project meetings with the client, the public, regulatory agencies, and other project consultants; career development of staff technical skills; client service; resource management; and managing the overall performance of the New York offices including opening and management of satellite offices in Manhattan and Albany.

Oversight activities and experience include technology assessments; preparing technical specifications; program management; procurements; engineering design; cost analyses; life cycle cost analyses; contract negotiations; permitting; regulatory approval; construction monitoring and inspection; operations and maintenance monitoring; training; and quality assurance and quality control management. Also experienced in the power plant and utility industry, involving work on various types of power plants, including hydroelectric, pumped storage, nuclear, oil-fired and coal-fired.

Experience includes appointment as the Commission Engineer for a water pollution control authority responsible for all technical aspects of the town's sewer system, feasibility studies, asset management, cost analyses, sewer system extensions, project connection applications, pumping station design, and construction monitoring; Project Manager on solid waste projects consisting of household hazardous waste collection facilities, recycling facilities, a waste baling facility, a waste shredding facility, transfer stations and a landfill; Project Manager for a storm water management and drainage project to remediate flooding in a residential area.

Professional Experience

BSG Engineering, Surveying & Landscape Architecture, LLC White Plains, NY 2006 to present
Vice President

Responsible for opening a new office in New York and establishing a client base for expansion. Work involves interaction with and support of clients, governmental officials, regulators and industry experts. Additional responsibilities include management and oversight of all projects in the White Plains office including supervision of staff and monitoring project budgets and schedules.

Commission Engineer for a water pollution control authority (WPCA) responsible for all technical aspects of the town sewer system, feasibility studies, asset management, cost analyses, sewer system extensions, pumping station design, and construction monitoring. Participation in the WPCA Board meetings and addressing all technical matters.

Project Manager for a feasibility study to evaluate the viability of a household hazardous waste facility. Work on this project included consideration of site layout; adjacent land use; operational and design requirements; availability of utilities; roadway configurations; access and egress routes; and development of conceptual site arrangements. Construction cost estimates and environmental permitting requirements were determined. The project design is complete and is currently in the permitting phase with bid solicitation expected soon.

Project Manager for a storm water management and drainage project to remediate flooding in a residential area. Work on this project included design of a piping network, berm, detention basin and securing permits as required.

Project Principal on projects for multiple municipalities involving Planning Board review efforts, dam safety inspections and other miscellaneous assignments.

HDR Engineering, Inc. White Plains, NY
Vice President

1990 to 2006

Responsibilities included management of the Facilities and Quality Assurance/Quality Control (QA/QC) programs for the New York area. This included identifying potential projects; establishing teaming partners; project pursuit; management of existing projects along with management of the engineers and staff working on various projects; and development and management of the QA/QC program for the New York offices.

As a Section Leader in the New York offices, played a key role in many projects, including directing and participating in technical efforts; developing and monitoring project schedules and budgets; coordinating and supervising the project team; providing quality control of documents and deliverables prepared for the projects; and attending project meetings with the client, the public, regulatory agencies, and other project consultants. Possess specific knowledge of procurement strategies including development of bid specifications and contract documents along with contract negotiations.

As a Department Manager in the New York offices, was responsible for the overall performance of the New York offices including opening and management of satellite offices in Manhattan and Albany.

Acted as Program Manager, Project Manager and lead technical consultant on resource recovery facilities. This included technology assessments; preparing technical specifications and procurement

documents; negotiating contracts; reviewing design; securing project permits; and monitoring construction, operations, and maintenance activities. Projects were in excess of \$23 million. Assignments also included training and mentoring staff; developing monitoring programs; and management of quality aspects of products. Work included projects in New York, New Jersey, Connecticut, and Maryland.

New York Power Authority White Plains, NY
Mechanical Engineer

1981 to 1990

Experienced in the power plant and utility industry involving work on various types of power plants, including hydroelectric, pumped storage, nuclear, and oil-fired.

Supervised, monitored, and coordinated efforts for the replacement of four steam generators at the Indian Point Unit 3 1,000-MW nuclear power plant. This project was in excess of \$100 million. Prepared technical specifications for specialty maintenance equipment; evaluated bids and selected equipment; developed and implemented procedures for the use of the equipment; and established training for the proper handling and operation of the equipment. Worked as a nuclear power plant maintenance engineer for several outages to supervise and monitor the installation of plant modifications. Prepared several specifications for power plant equipment, such as vertical service water pumps, vertical fire water pumps, a bridge crane, and traveling water screens. Also performed bid evaluations and equipment selections.

Conducted an in-depth investigation on several hydroelectric power plants to identify all discharges from each plant to support a renewal of the facility state pollution discharge elimination system permit. Assisted with a modification to increase the effective cooling of generators at a hydroelectric power plant. Performed engineering and design of several plant modifications including calculations, equipment specification and selection, cost comparisons, and installation details.

Burns and Roe Oradell, NJ
Mechanical Engineer

1980 to 1981

Experienced in the power plant and utility industry.

Performed and monitored pre-operational and start-up testing of systems for two 560-MW coal-fired power plants. Prepared operational schematics for several power plant systems, including control/service air, condensate, auxiliary steam, turbine-generator auxiliary systems, fire protection, water pretreatment, electrostatic precipitator, soot blowing, and sampling. Performed engineering and design of several plant modifications including calculations, equipment specification and selection, cost comparisons, and installation details.

Organizations

President of the Board of Directors for the New York State Chapter of SWANA

References

Available upon request

This is in response to the Deputy County Executive's February 17, 2012 correspondence to the Clerk of the County Board of Legislators disagreeing with the conclusion reached in all seven (7) of the Clerk's February 16, 2012 memoranda "that 'the Board of Legislature has rejected the appointment...' of the individuals referenced in the [] memoranda."

First, the Deputy County Executive's conclusion that "[i]t is clear from the BOL's proceeding on February 13, 2012, that no vote was taken to 'reject' any of the [] seven appointments proposed by County Executive Robert P. Astorino," is belied by the public record of the Board meeting on February 13, 2012. The Deputy County Executive's attention is directed to the plain language of the memorandum concerning the appointment of Jay T. Prisco as the Commissioner of Public Works & Transportation, ID #4952. It provides:

The attached communication was submitted to the Board of Legislators for consideration for Committee referral at the February 13, 2012 Board meeting.

The motion to receive, file and refer the item to Committee on Appointments was defeated by a vote of 8-9 and is being returned. Therefore, the Board of Legislators has *rejected* the appointment of Jay T. Prisco as Commissioner of the Department of Public Works and Transportation.

Id. (emphasis added).

In summary, all seven items concerning appointments made by the County Executive to various boards and commissions as well as the appointment of the Commissioner of Department of Public Works and Transportation died on the floor. Moreover, contrary to the Deputy County Executive's assertion, the items cannot "be revisited at subsequent meetings of the Board of Legislators" since the items have indeed been rejected by the County Board.

Second, there is no legal requirement nor does the Deputy County Executive's cite to any legal authority in his letter which mandates that the Board affirmatively vote to reject a proposed appointment. Indeed, the case law in this County is clear that it is the failure to obtain an affirmative vote by the required majority that "terminates" an appointment. *Berenson v.*

O'Rourke, Westchester County Supreme Court, Index No. 15769/91 (Burrows, J., Oct. 1, 1991) at 2; *see also* Memorandum from Robert F. Meehan, Westchester County Attorney, to George Oros, Chief of Staff, dated June 28, 2011, at 2-3 ("An affirmative vote of the required majority of the County Board renders the appointment permanent; while an appointment is terminated by failure to obtain the required majority vote of the County Board," *citing Berenson v. O'Rourke*).

Clearly, the 7 appointments were terminated based on the failure to obtain a majority vote of the County Board.

Finally, the Deputy County Executive's attention is brought to *Matter of Montano v. County Legislature of County of Suffolk*, 70 AD3d 203, 891 NYS2d 82 (2d Dep't 2010). In *Montano v. County Legislature of County of Suffolk*, the Appellate Division, Second Department held:

"[I]t is a fundamental principle of organic law that each department of government should be free from interference, in the lawful discharge of duties expressly conferred, by either of the other branches" (*Matter of New York State Inspection, Sec. & Law Enforcement Empls., Dist. Council 82, AFSCME, AFL-CIO v. Cuomo*, 64 N.Y.2d 233, 239, 485 N.Y.S.2d 719 [1984], *citing People ex rel. Burby v. Howland*, 155 N.Y. 270, 282, 49 N.E. 775 [1898]; *see Matter of Fornario v. Clerk to Rockland County Legislature*, 307 A.D.2d 927, 928-929, 762 N.Y.S.2d 896 [2d Dept 2003]). "In this regard, it is not the province of the courts to direct the legislature how to do its work" (*Matter of Fornario v. Clerk to Rockland County Legislature*, 307 A.D.2d at 929, 762 N.Y.S.2d 896, *quoting New York Pub. Interest Research Group v. Steingut*, 40 N.Y.2d 250, 256, 386 N.Y.S.2d 646 [1976]; *see People ex rel. Hatch v. Reardon*, 184 N.Y. 431, 442, 77 N.E. 970, [1906] *affd*, 204 U.S. 152, 27 S.Ct. 188, 51 L.Ed. 415). "[S]eparation of powers principles generally preclude courts from intrud[ing] upon the policy-making and discretionary decisions that are reserved to the legislative and

executive branches”(*Matter of Maron v. Silver*, 58 A.D.3d 102, 107, 871 N.Y.S.2d 404 [3d Dept 2008], quoting *Campaign for Fiscal Equity, Inc. v. State of New York*, 8 N.Y.3d 14, 28, 828 N.Y.S.2d 235 [2006]).

Id. at 210.

Given these fundamental principles, particularly the fact that the Courts of this state refrain from intruding upon the internal workings of a legislative branch, any attempt by the Deputy County Executive to dictate that manner in which this Board must exercise it’s legislative functions in this or any matter is clearly contrary to law.

Robert P. Astorino
County Executive

Kevin J. Plunkett
Deputy County Executive

RECEIVED
FEB 17
2012 JAN 8 P 1:26
WESTCHESTER COUNTY
BOARD OF LEGISLATORS

BY HAND

February 17, 2012

Hon. Tina Seckerson
Clerk & Chief Administrative Officer
Westchester County Board of Legislators
148 Martine Avenue
White Plains, New York 10601

*Received
2/17/12
As Secretary to
Deputy Clerk
of the Board.*

- Re:
1. ID #4952 – Commissioner of Public Works & Transportation
 2. ID# 4916 – Fair Housing Board
 3. IDs# 4896 & 4917 – Human Rights Commission Appointments
 4. ID# 4910 – African American Advisory Board
 5. ID# 4897 – Planning Board
 6. ID# 4895 – Deferred Compensation Board
 7. ID#s 4890 & 4891 – Housing Opportunity Commission Appointments

Dear Madam Clerk:

Last evening at approximately 5:40 pm I received an email from you regarding Item 1 above, and this morning I received hard copies of memoranda from you with respect to all of the above seven items.

After reviewing the tape of the Board of Legislators' ("BOL") meeting of February 13, 2012, and the agenda, the administration disagrees with the conclusion reached in all seven of your memoranda that "the Board of Legislators has rejected the appointment..." of the individuals referenced in the above seven memoranda.

It is clear from the BOL's proceedings on February 13 that no vote was taken to "reject" any of the above seven appointments proposed by County Executive Robert P. Astorino. The only vote that was taken was a vote to refer to committee. Although the referral to the committee on all seven failed at the February 13, 2012 meeting, the referrals can be revisited at subsequent meetings of the Board of Legislators.

Office of the County Executive

Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601


Telephone: (914) 995-2900

E-mail: kplunkett@westchestergov.com



Accordingly, all seven individuals will continue to perform in their respective positions until there is a formal vote taken by the BOL on the actual appointments made by County Executive Robert P. Astorino.

Very truly yours,



Kevin J. Plunkett

Deputy County Executive

KJP/pel

cc (via email): Hon. Robert P. Astorino
Hon. Kenneth Jenkins
Mr. George Oros
Robert Meehan, Esq.
