



Committee on Law

~AGENDA~

Wednesday, September, 10, 2014

10:00 AM

Committee Chair: Lyndon Williams

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

JOINT WITH COMMITTEES ON LEGISLATION AND LABOR, PARKS, PLANNING & HOUSING

Legislator David Gelfarb will be attending via video conference.

He will be located at:

Moss & Kalish, PLLC

122 East 42nd Street

New York, New York 10168

Phone: (212) 867-4488

Fax: (212) 983-5276

MINUTES APPROVAL

1. Monday, August 18, 2014 at 11:00 AM

I. ITEMS FOR DISCUSSION

1. **(ID # 7142) Act – Special Assurances to US Dept. of Housing & Urban Development:**

An Act providing special assurances by the County of Westchester to the US Dept. Of Housing & Urban Development in order to avoid reallocation of CDBG funding.

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT



Committee on Law

~MINUTES~

Monday, August, 18, 2014

11:00 AM

Committee Chair: Lyndon Williams

DRAFT 1

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

With a quorum present, Chair Lyndon Williams called the meeting to order at 11:20 AM.

Legislator David Gelfarb was present via video conference.

As publicly noticed in advance, he was located at:

Moss & Kalish, PLLC

122 East 42nd Street

New York, New York 10168

Phone: (212) 867-4488

Fax: (212) 983-5276

Attendee Name	Title	Status	Arrived
Lyndon Williams	Chair	Present	
Gordon A. Burrows	D15 Legislator (Minority Whip)	Absent	
David B. Gelfarb	D6 Legislator	Remote	
Mary Jane Shimsky	D12 Legislator	Present	
Michael Kaplowitz	D4 Legislator (Chairman of the Board)	Present	

Others In Attendance: LEGISLATORS: Majority Leader Borgia, B. Boykin; BOL: T. Bernard, J. Axelrod, G. Zuckerman, J. Horowitz (Kaplowitz intern), BOL interns.

MINUTES APPROVAL

- Monday, August 04, 2014 at 12:00 PM

On motion of Legislator Shimsky, seconded by Legislator Kaplowitz, the minutes were approved 3-0.

Minutes Acceptance: Minutes of Aug 18, 2014 11:00 AM (MINUTES APPROVAL)

I. ITEMS FOR DISCUSSION

REVIEW OF EXPERT'S REPORTS REGARDING WATER DISTRICT NO. 1

Chair L. Williams thanked County Attorney Meehan and DEF Commissioner Lauro for attending on short notice.

He then inquired as to what discussion, if any, can be held in public session. County Attorney Meehan responded that the design questions can be held in public session, however, the rest of the discussion will need to be in executive session due to the pending litigation.

Commissioner Lauro stated that design is currently at 35 - 40%. He also stated that no previous consent decree was entered into on this issue. With regards to budgeting, Mr. Lauro stated that only \$731,000 has been previously allocated, and that was for design of one UV facility. Lastly, Mr. Lauro clarified that both pump stations, Central Ave. And Orchard St., are in White Plains.

On the motion of Legislator , seconded by Legislator , the Committee went into Executive Session at 12:00 pm.

On the motion of Legislator , seconded by Legislator , the Committee came out of Executive Session at 12:47 pm.

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Shimsky, seconded by Legislator Kaplowitz, the Committee adjourned at 12:49 PM.

ACT No. ____ - 2014

AN ACT providing special assurances by the County of Westchester to the United States Department of Housing and Urban Development in order to avoid the reallocation of Community and Planning Development formula funds for fiscal years 2012 and 2013.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County of Westchester (“County”) provides the following special assurances to the United States Department of Housing and Urban Development (“HUD”) in order to avoid reallocation of the Community Planning and Development formula funds for the Westchester Urban County Consortium for fiscal years 2012 and 2013:

- (a) The County acknowledges that it has an ongoing duty to affirmatively further fair housing that includes compliance with the 2009 Stipulation and Order of Settlement and Dismissal (“2009 Housing Settlement”). This acknowledgment does not constitute or authorize an expansion or amendment of the terms and conditions of the 2009 Housing Settlement.
- (b) The County adopts the findings of the Monitor’s report on Westchester County’s Analysis of Municipal Zoning dated September 13, 2013, along with supplemental progress reports on zoning, and incorporates these by reference into the Analysis of Impediments to Fair Housing Choice (“AI”). The County shall comply with the Monitor’s recommendations and information requests as authorized by the 2009 Housing Settlement.

- (c) The County shall provide a final zoning submission for all 31 eligible municipalities within a reasonable period of time after receiving a report from the Monitor that includes a disparate impact analysis for minorities in these municipalities and is consistent with the amendments required in HUD's August 9, 2013 letter. The County understands that this report from the Monitor may serve as the final zoning submission. The final zoning analyses shall be incorporated into the County's AI.
- (d) The County adopts, incorporates by reference into its AI, and commits to implementation of, the below strategy to overcome exclusionary zoning practices. The below strategy shall only be implemented with eligible municipalities that have been identified as having Restrictive Practices that may potentially have discriminatory exclusionary effects.
- 1) The County will identify the eligible municipalities with Restrictive Practices that may potentially have discriminatory exclusionary effects within a reasonable period of time after receiving a report from the Monitor as described in Section 1(c) of this Act.
 - 2) The County will communicate in writing with municipal decision-makers to identify restrictions and seek removal or reduction of unjustifiable restrictions with potentially discriminatory exclusionary effects. Factors to be discussed and considered shall include, but shall not be limited to:
 - a. Identification of the Restrictive Practice(s) present in the municipality;
 - b. An examination of the representation of the single race black population in the municipality (as a percentage), in comparison to its representation in the County as a whole;
 - c. An examination of the representation of the Hispanic population in the municipality (as a percentage), in comparison to its representation in the County as a whole;
 - d. An examination of the representation of families with children in the municipality (as a percentage), in comparison to its representation in the County as a whole;
 - e. Observation that the presence of the Restrictive Practice(s) could have the potential to impede fair housing choice for such populations;
 - f. An explanation of whether the restriction is legally justified by examining:

- i. Whether the restriction is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests; and
 - ii. Whether those interests could not be served by another practice that has a less discriminatory effect.
- g. If any Restrictive Practice(s) does not have a legally sufficient justification, the County must insist that the municipality pursue a less restrictive alternative (note that a legally sufficient justification must be supported by evidence and may not be hypothetical or speculative).
- 3) After the County has exhausted its attempts to communicate and obtain the cooperation of said municipality, as set forth above, where there is no legally sufficient justification for the Restrictive Practice, the County shall engage in enforcement activities which may include referral for enforcement to the U.S. Department of Justice. Such referral may be made by either:
- a. the County Executive, or
 - b. the Board of Legislators by Resolution.

A municipality's failure to enact the model zoning ordinance shall not be the sole reason for initiating enforcement activities against a municipality.

§ 2. The Clerk of the Board of Legislators is authorized and directed to submit a certified copy of this Act to HUD.

§ 3. The County Attorney and the Commissioner of Planning are authorized and directed to provide resources, as needed, to implement Section 1 and to carry out the purposes of this Act.

§ 4. The Westchester County Board of Legislators is authorized to take such other actions as are necessary to accomplish the purposes of this Act.

§ 5. This Act shall take effect immediately. This Act shall terminate upon either of the following events:

- (a) HUD fails to allocate Community and Planning Development formula funds for fiscal years 2012 or 2013 pursuant to the normal schedule of funds allocation; or
- (b) The satisfaction of the 2009 Housing Settlement.

ACT No. ____ - 2014

AN ACT to accept a revised Analysis of Impediments for the County of Westchester, to authorize the County of Westchester to enter agreements to receive Community and Planning Development formula funds for fiscal years 2012, 2013, and 2014, and to authorize the County of Westchester to seek qualification as an urban county consortium for the fiscal year 2015-2017 period.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. In order to avoid reallocation of Community and Planning Development formula funds for fiscal years 2012, 2013, and 2014, and to comply with Paragraph 32 of the 2009 Stipulation and Order of Settlement requiring an Analysis of Impediments acceptable to the United States Department of Housing and Urban Development (“HUD”), the County of Westchester (“County”) accepts a revised Analysis of Impediments to Fair Housing Choice, as described below:

- (a) The County acknowledges that it has an ongoing duty to affirmatively further fair housing that includes compliance with the 2009 Stipulation and Order of Settlement and Dismissal (“2009 Housing Settlement”). This acknowledgment does not constitute or authorize an expansion or amendment of the terms and conditions of the 2009 Housing Settlement.
- (b) The County adopts the findings of the Monitor’s report on Westchester County’s Analysis of Municipal Zoning dated September 13, 2013, regarding socioeconomic impacts of zoning. The County also adopts the findings of the Monitor’s report dated September 8, 2014, regarding disparate impacts of zoning upon minority populations.

The County further adopts prior reports by the Monitor that analyze zoning, including, but not limited to, the Monitor's First Zoning Analysis Progress Report dated February 10, 2014. The County incorporates these Monitor reports by reference into the County's Analysis of Impediments to Fair Housing Choice ("AI"), last updated April 2013, and such reports shall replace the zoning analyses in the County's April 2013 AI. The County recognizes that municipalities have made significant progress in addressing the recommendations in the Monitor's reports.

- (c) The County shall comply with the Monitor's recommendations and information requests as authorized by the 2009 Housing Settlement.
- (d) The County adopts, incorporates by reference into its AI, and commits to implementation of, the below strategy to overcome exclusionary zoning practices. The below strategy shall only be implemented with eligible municipalities that have been identified as having Restrictive Practices that may potentially have discriminatory exclusionary effects:
 - 1) The County or Monitor will communicate in writing with municipal decision-makers to identify restrictions and seek removal or reduction of unjustifiable restrictions with potentially discriminatory exclusionary effects. Factors to be discussed and considered shall include, but shall not be limited to:
 - a. Identification of the Restrictive Practice(s) present in the municipality;
 - b. An examination of the representation of the single race black population in the municipality (as a percentage), in comparison to its representation in the County as a whole;
 - c. An examination of the representation of the Hispanic population in the municipality (as a percentage), in comparison to its representation in the County as a whole;
 - d. An examination of the representation of families with children in the municipality (as a percentage), in comparison to its representation in the County as a whole;
 - e. Observation that the presence of the Restrictive Practice(s) could have the potential to impede fair housing choice for such populations;

- f. An explanation of whether the restriction is legally justified by examining:
 - i. Whether the restriction is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests; and
 - ii. Whether those interests could not be served by another practice that has a less discriminatory effect.
 - g. If any Restrictive Practice(s) does not have a legally sufficient justification, the County, acting upon the recommendation of the monitor, must insist that the municipality pursue a less restrictive alternative (note that a legally sufficient justification must be supported by evidence and may not be hypothetical or speculative).
- 2) After the County and the Monitor have exhausted their attempts to communicate and obtain the cooperation of said municipality, as set forth above, where there is no legally sufficient justification for the Restrictive Practice, the County, acting upon the recommendation of the monitor, shall engage in enforcement activities which may include referral for enforcement to the U.S. Department of Justice. Such referral may be made by either:
- a. the County Executive, or
 - b. the Board of Legislators by Resolution.

A municipality's failure to enact the model zoning ordinance shall not be the sole reason for initiating enforcement activities against a municipality.

§ 2. The County of Westchester is authorized to enter into grant agreements with HUD to accept Community and Planning Development formula funds for fiscal years 2012, 2013, and 2014. The County Executive or his/her authorized designee or the Chair of the Board of Legislators or his/her authorized designee be and hereby are authorized to execute any and all documents that are necessary and appropriate to effectuate the purposes of the settlement and obtain Community and Planning Development formula funds.

§ 3. The County of Westchester is authorized to submit an application to HUD to qualify as an urban county consortium for the fiscal year 2015-2017 period. The County Executive or his/her authorized designee or the Chair of the Board of Legislators or his/her authorized designee be and hereby are authorized to execute any and all documents that are

necessary and appropriate to effectuate the purposes of the settlement and obtain Community and Planning Development formula funds.

§ 4. The County Attorney and the Commissioner of Planning are authorized and directed to provide resources, as needed, to carry out the purposes of this Act.

§ 5. The Westchester County Board of Legislators is authorized to take such other actions as are necessary to accomplish the purposes of this Act.

§ 6. The Clerk of the Board of Legislators is authorized and directed to submit a certified copy of this Act to HUD.

§ 7. This Act shall take effect immediately. This Act shall terminate upon either of the following events:

- (a) HUD reallocates Community and Planning Development formula funds for fiscal years 2012, 2013 or 2014; or
- (b) The satisfaction of the 2009 Housing Settlement.