Exhibit

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REPORT OF THE WESTCHESTER COUNTY CHARTER REVISION COMMISSION

DECEMBER 5, 2013

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PAUL WINDELS III
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GARY J. ZUCKERMAN
Rye Brook

December 5, 2013

Honorable Ken Jenkins and Members of the Board of Legislators
Honorable Rob Astorino, County Executive
County of Westchester
Michaelian County Office Building
148 Martine Avenue, White Plains, New York 10601

Re: Report of the Westchester County Charter Revision Commission

Dear Chairman Jenkins and County Executive Astorino:

I am pleased to convey the Report of the Westchester County Charter Revision Commission.

The Charter Revision Commission was convened in accordance with Act 34-2011 of the Westchester County Board of Legislators (later amended by Act 18-2012) to review the County Charter and Administrative Code and prepare recommendations for consideration by the County government within six months of the issuance of the Commission's report.

Ours is the first official Charter review in Westchester County in 25 years. The Commission worked for more than two years. In the course of its deliberations it took testimony from dozens of witnesses and considered research that compared governmental practices in Westchester with those in other New York counties and best practices elsewhere. All of the witness testimony has been documented, and research materials are in the record. Our meetings were video-recorded and are available on the County's website. Minutes of our meetings, and all other documents related to our work are attached as an Appendix to this report.

The Commission's report recommends centralizing property tax assessment; changing the County's fiscal year; reforming the budget process; appointing rather than electing the County Clerk, establishing procedures for legislative confirmation of executive appointments, filling short term vacancies in legislative office, and determining the initiation and termination of executive disability; re-examining the code of ethics; establishing a council of governments; and convening a charter revision commission every ten years.

By contrast, proposals to change the form of county government and the role of the county attorney; to enable electors to propose and adopt legislation through initiative and referendum; and to implement certain other organizational and operational changes were disapproved by the Commission.

The recommendations in the report were agreed to by majority vote of the Commission members. These recommendations are the unbiased product of the citizen members of the Commission. We worked hard to remain independent, fair, and respectful of each member of the Commission's opinions.

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We are aware that some may consider certain of the Commission's recommendations to be controversial. However, that is not our concern. We are presenting recommendations that we believe will make our County government more efficient, effective, and transparent to the public it serves.

It has been an honor for me personally to serve on the Commission. Although the task was arduous and time-consuming, all but three of the originally appointed members of the Commission served for its duration, and conducted themselves with due diligence throughout the process. The Commissioners have learned a great deal about their County government and recognize that there remain many areas of the County Charter and Administrative Code, as well as complex government operations that require further detailed study and discussion.

On behalf of the Commission members, I thank all of the witnesses who took time to share their experiences and opinions. We are grateful to the members of the administration and legislative staff for their assistance. Of particular note are Melanie Montalto and Anand Singh who coordinated the Commission's activities, and attorneys Stacy Dolgin-Kmetz and Christopher Crane who provided additional staff support and guidance. Conrad Barclay provided audio and video technical support at every meeting. Justin Adin of the County Law Department assisted with legal advice at Commission meetings. Sincere appreciation is also extended to President Joseph Hankin and his staff at the Westchester Community College for providing a venue for a daylong retreat at the college campus.

Extraordinary service was provided by Lester Steinman who was appointed to serve as counsel to the Commission and Dr. Gerald Benjamin, Director of the Center for Research Regional Engagement and Outreach (CRREO) at SUNY New Paltz, consultant to the Commission. Their professional experience and expertise provided invaluable support to the Commission.

Although the Commission's term ends December 31, 2013, the members of the Commission will be available to assist in the County's review of the attached recommendations during the mandated review period.

Sincerely,

Richard G. Wishnie

Richard G. Wishnie
Chairman
Westchester County Charter Revision Commission

cc: Members, Staff and Consultants of the Westchester County Charter Revision Commission

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Westchester County Charter Revision Commission

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Briarcliff Manor
Chairman

David A. Menken
Bedford
First Vice-Chair

Vincenza A. Restiano
Yonkers
Second Vice-Chair

Derickson K. Lawrence
Mount Vernon
Third Vice-Chair

Herman Geist
North Castle
Secretary

Raymond W. Belair
Bronxville

Jeffrey M. Binder
Armonk

Anita Delgado*
White Plains

Alfred A. Gatta
White Plains

Julia P. Killian
Rye

John W. Mattis
Cortland

Steven Mayo
New Rochelle

Anne McAndrews
Larchmont

Florence McCue
Elmsford

Paul Meissner
Yonkers

Jane Morgenstern
Dobbs Ferry

Guy T. Parisi
Rye

Bertrand Sellier
Pelham Manor

Matthew Thomas
Rye

Dr. Ronald Volino
Yonkers

Paul Windels III
Scarsdale

Sam Zherka**
Katonah

Gary J. Zuckerman
Rye Brook

* Resigned

** Attended one meeting; did not participate in deliberations or voting on the Commission's Final Report

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ESTABLISHMENT AND OPERATION OF THE COMMISSION

Establishment and Operation of the Commission

The Westchester County Charter Revision Commission, the third to meet since the original adoption of the County Charter more than three-quarters of a century ago, was created by Act 34-2011 of the County Board of Legislators. This measure was passed upon a recommendation of the Board's Committee on Legislation on March 14, 2011 and approved by the County Executive on March 24, 2011.

The Commission was given very broad responsibility. It was directed to:

> "(a) Study the operations of the County of Westchester in their full scope;
> (b)Consider the inter-municipal relations between the County of Westchester and various cities towns and villages within the County;
> (c) Review the myriad responsibilities that the County of Westchester discharges in the course of its broadly defined duties;
> (d)Determine whether the Westchester County Charter and the Westchester County Administrative Code shall be amended so as to create a more effective and efficient framework for County government;
> (e) Recommend such amendments as may be necessary to facilitate the delivery of services to the public and to better coordinate the functions between departments and agencies of the County and the various cities, towns and villages within the County; and
> (f) Submit a final report, which shall include the Commission's findings, conclusions, and recommendations for appropriate action to the County Board of Legislators and the County Executive on or before April 30, 2012."

History: Beginning in 1915, a series of commissions recommended a charter for Westchester County. State legislation and local approval at referendum were required to achieve change. All proposals were either vetoed or failed to receive popular support at the polls. Westchester's 1937 Charter, the second adopted by and for a New York county, established a separation of powers system of government in the county. Adopted by special act of the state legislature, this Charter was the first in New York State to employ the term "county executive" and also the first to style its governing body as a "legislature." The Westchester County Administrative Code, further detailing implementing the charter, was adopted by special act of the state legislature in 1948.

Prior to the convening of this Commission in 2011, there were two earlier extensive reviews of the Westchester County Charter and Administrative Code. The first of these was by a commission that met between 1957 and 1961. The second was done by a Charter Study Commission appointed in 1987 on the recommendation of the Westchester 2000 project's wide ranging report on the County's future. It reported in 1988. Both resulted in significant structural changes to County government. A summary description of the results of these commissions' work may be found in a presentation on the "Government of Westchester County," prepared for the Commission by Stacey Dolgin-Kmetz and attached as part of the Appendix to this report.

Commission Duration: The Board of Legislators provided for the Commission to be constituted no later than April 30, 2011, and complete its work by June 30, 2012. In March of 2012, the Charter Commission advised the Legislation Committee of the Board of Legislators that - in light of the complexity of the undertaking and the actual date at which it was able to initially convene - it would require additional time. The

Committee unanimously recommended that the Commission's term be extended until December 31, 2013, with its report due on December 15, 2013. By Act 18-2012, the Board of Legislators unanimously extended the term of the Commission in accord with this recommendation.

Commission Membership: Westchester is one of New York's largest, most economically vital and geographically and demographically diverse counties. (With a population 949,113 in 2010, the county includes within its boundaries 500 square miles of land and water area, with local governance — in addition to the county - provided by six cities, 19 towns and 23 villages.) The method specified by the legislature for comprising its membership - one commissioner appointed by each of the seventeen legislators elected from single member districts and six appointed by the county executive — assured that the Charter Commission's 23 members would be representative of the different types and sizes of local jurisdictions in the county, and all its geographic areas, and that it would be bipartisan in character. (The resignation of Commissioner Anita Delgado of White Plains reduced the size of the group to 22.) However, the appointing process was less successful in assuring a degree of demographic diversity in its membership comparable to that in the county as a whole. This notwithstanding, commissioners worked diligently to assure that its consideration of the structures and processes of county government was undertaken with sensitivity to the best interests of all the people of Westchester County.

In order to assure that it functioned with some analytic distance from the day-to-day workings of county government, the Board of Legislators precluded County employees from service on the Commission. Nonetheless, appointed members brought to the Commission extensive background as volunteers and elected officials at the county level and in Westchester communities and local governments, and a richness of formal training and public and private sector experience. Members and their home communities are named at the outset of this report; their resumes are attached as part of the Appendix to this report.

Commission Leadership: The Board of Legislators empowered the Commission to choose its own officers. At its initial meeting on June 15, 2011, the Commission unanimously chose Richard Wishnie of Briarcliff Manor as interim Commission Chairman; he was unanimously elected to continue in that capacity at the following (July 13) meeting. Herman Geist of North Castle was unanimously elected as Commission Secretary at the following (September 27, 2011) meeting. Three vice chairs were unanimously designated at the Commission's March 22, 2012 meeting: David A. Menken of Bedford, Vincenza A. Restiano of Yonkers and Derickson K. Lawrence of Mount Vernon. A Steering Committee was established comprised of the Commission's officers and the Chairs and co-chairs of the Focus Groups discussed below.

Commission Resources: Act 34-211 provided that the Commission be provided the resources necessary to carry out its responsibilities. Commensurate with this commitment, early in 2012, Lester Steinman was appointed to serve as Counsel to the Commission. For much of its duration Melanie Montalto of the legislative staff coordinated the Commission's work; this responsibility was later assumed by Anand Singh. Attorneys Stacey Dolgin-Kmetz and Christopher Crane of the legislative staff provided additional staff support and guidance. Justin Adin of the County Department of Law attended, observed and assisted with legal advice at Commission meetings. Gerald Benjamin, Director of the Center for Research Regional Engagement and Outreach (CRREO) at SUNY New Paltz was retained as a consultant in the spring of 2013 to further support the Commission in completing its work.

Meetings and Decision Rule: The Commission met 33 times, generally monthly or bi-monthly, (except for summer months), during the period June 15, 2011 to December 5, 2013. More frequent meetings in September and October of 2013 were held to facilitate timely completion of the Commission's work.

The quorum requirement, first established as fifteen members, was reduced to 12 — a majority of the membership - at the May 24, 2012 meeting.

Testimony and Information Gathering: The Commission took extensive testimony from key current and past elected and appointed officials of Westchester County government and other local governments in the county, and also called upon experts from outside government. Presentations were made to the Commission regarding the operations of the various departments and boards of the County. Visits were scheduled to county facilities to further familiarize commissioners with the character and range of county services.

Public Access: All Commission meetings were held in public. In accord with the early expressed interest and priorities of commissioners, efforts were made to assure public access to Commission deliberations and more generally to inform the public about its work as it proceeded. A home page for the Commission was established on the Board of Legislators' website in July of 2012. It provides access to the Charter and Administrative Code, Commission meeting minutes, committee reports, press releases and a video of Commission proceedings (http://westchestercountyny.iqm2.com/Citizens/Media.aspx). Public hearings were held on April 3, 2013 and November 20, 2013. These efforts notwithstanding, public attention to and participation with the Commission's work must be characterized as limited. The record of Commission meetings is attached as part of the Appendix to this report.

Focus Groups: Four focus groups were created at the Commission's September 27, 2011 meeting to more efficiently address the great range of matters potentially brought forward for Commission consideration and action. The names and subject matter areas of these focus groups were Executive/Legislative Relationship, Local Government/County Government Relationship, Charter and Code, and Budget and Finance. Chairs and vice chairs of these groups were, respectively: Al Gatta and Gary Zuckerman; Vincenza Restiano and David Menken; Guy Parisi and Florence McCue; and Jeff Binder and Paul Meissner. Wherever possible, commissioners volunteered for or were assigned to focus groups in accord with their interests. Focus Groups met and deliberated over the course of the 2012 calendar year, and provided regular updates at Commission meetings to assure that colleagues were informed of their activities and developing priorities.

Deliberations: Focus Group reports informed and directed Commission deliberations in the early months of 2013, and became the primary source of the Commission's final recommendations for charter changes. Dr. Benjamin provided a comparative research base for considering key matters identified for action by the focus groups. The record of focus group meetings, their final draft reports and Dr. Benjamin's presentations may be found in the Appendix to this report.

Commission Powers and Board of Legislators Commitment: The Westchester County Charter Commission is an advisory body to the Board of Legislators and the County Executive. Under the terms of the Commission's enabling legislation, the Board of Legislators committed themselves to act upon the Commission's recommendations within six months of their formal receipt.

Recommendation Process: Based upon focus group recommendations and attendant research, a list was compiled of potential recommendations for Commission action and circulated by the chair to commissioners for comment and revision. Once this list was finalized draft resolutions were prepared for Commission consideration, debate, revision and action. Resolutions were acted upon by commissioners in a series of public meetings. For all meetings in which action was taken, a quorum of the commission was present. The affirmative votes of a majority of those present were required to approve the inclusion of a recommendation in the Commission's final report.

Final Report: On December 5, 2013, the Commission approved the final report to be transmitted to the Chairman of the County Board of Legislators and the County Executive.

COMMISSION DETERMINATIONS

APPROVED

Establish a County Department of Assessment

The property assessment system has long been a matter of concern in Westchester County. According to the 1984 City-County Task Force Report (p.96), "assessments have long been a source of extreme difficulty, have not been done very professionally, and have created extreme inequities among the various property owners." Echoing this conclusion, the 1985 County-Town-Village Task Force Report stated that "Many of the local assessor's offices in the County are not sufficiently funded, staffed or computerized." Similarly, a 2009 Westchester County Collaborative Assessment Study noted that, "Inadequate funding causes several systematic problems, one of which is the paucity of electronic data . . . [T]here currently exists an enormous disparity in both the quality and consistency in the inventory data that is in place in Westchester municipalities."

Despite acknowledging these systemic problems, none of the reports have recommended a county takeover of the assessment function. The City/County Task Force Report recognized that, "Political pressures make change difficult." The County/Town/Village Task Force Report (p.83) pointed out that, "The County Charter already contains enabling legislation authorizing a transition to county assessment subject to approval at a referendum prior to becoming effective (Laws of Westchester County, Chapter 125)."

In the most recent report to address these problems, the 2011 Westchester County Collaborative Assessment Commission[1] recommended:

"A systematic, consistent, accurate and completely computerized collection and recording of all property characteristics is needed for every parcel in Westchester County. With or without full re-assessment, it is essential that property data be accurate, regularly maintained and available to the public."

"Regardless of any determinations made as a result of this report, it must be recognized that the continued use of the property tax as a major source of revenue for local government requires a modern, equitable and transparent system. A new countywide system will improve the accuracy of assessments that are used for tax purposes."

Countywide assessment is uncommon in New York State. Nassau County, since 1938, and Tompkins County, since 1968, are the only examples of the formal shift of the function to the county level. (There are, however, examples of informal collaboration to create de-facto countywide assessing elsewhere in New York State.). Reasons cited in favor of countywide assessment are that a single assessing authority is likely to produce greater intra-jurisdictional equity, as the "jurisdiction" is the entire county; almost all need for equalization is eliminated (with the exception for school districts in more than one county) and there will likely be net savings in administrative costs. Arguments against countywide assessment point to diminished accessibility for and responsiveness to citizens, a shift in tax burden, and unproven administrative savings.

Constitutional referendum requirements are an obstacle to a transition to countywide assessment. Transferring the assessment function to the county from local governments involves a referendum which must obtain separate voter majorities in the cities, the area of the county outside the cities, and in the villages.

[1] The Westchester County Collaborative Assessment Commission consisted of a coalition of representatives from the Westchester County Tax Commission, the New York State Department of Taxation and Finance – Office of Real Property Services, the Westchester Municipal Officials Association, and the Westchester County Chapter of the New York State Assessors Association.

Additional obstacles to a transition to countywide assessment were discussed in the Executive/Legislative Focus Group's report:

"Assessment is one of the most contentious issues in county and local government. Financially, there seems little question that, overall, taxpayer money can be saved by utilizing the resources of the county to centralize the assessment function. In addition, inequities in local assessment would be eliminated, resulting in fairness both perceived and actual. Politically, however, this may be a difficult decision, as some municipalities may see this as a usurpation of home rule."

The Focus Group also outlined alternatives to countywide assessment:

"There are alternatives to the 'forced' takeover of the assessment function by the County as envisioned by current Chapter 125. For example, the County/Town Village Task Force Report (p.53) suggests that, 'a county Master Contract for reassessment with local ability to opt in or out seems generally well received.' This suggestion is similar to the police arrangements we now see with the County and municipalities, such as with Ossining. It also suggests, in its recommendation #5 at Page 55, for assessment "Assistance to towns and villages by the county, including provision of uniform maps and data processing facilities." Again, the County has already taken steps in this direction with the Planning Department and its GIS Systems that aide in comprehensive planning.

Against this background, the Focus Group made the following recommendation to the entire Commission:

"The Group suggests that the assessment function be transferred to the County, with the municipalities given the opportunity to 'opt out'. The incentive to become part of the County system would be that all assessment costs would be borne by the County, which would provide the adequate resources and technology that many of the local assessing units are lacking. Also, it would be a cost/beneficial way to fully update and modernize the assessment function in the County. The result would be reduced costs for local municipalities. The centralization and standardization of record keeping should lower overall costs to the county taxpayer and the standardization of assessments should make for a more fair system countywide. An added benefit would be that Tax Certiorari costs should be markedly reduced throughout the County."

"Collection of taxes could remain with municipalities, along with a guaranty of collection, so that the County's bond rating would not be adversely affected. During transition, local assessors could become part of the County's centralized assessment system and become county employees."

The Commission generally agreed with the Focus Group's recommendation, except for the "opt out" provision. Accordingly, the Commission approved the following resolution:

Resolved: The Westchester County Government should be the centralized property assessing unit for all jurisdictions in the County. It should be responsible for assessing all property, maintaining accurate up to date property record information and determining all property values and grievances. To assure equity in financing local governments at all levels, the centralization of assessments should be mandatory for all communities and all real property should be assessed uniformly at 100% of value across Westchester County. This goal should be effected by causing the necessary vote to be held on creating and empowering a countywide Department of Assessment in accordance with Section 125.01-91 of the Laws of Westchester County, and/or otherwise amending the Laws of Westchester County to accommodate this change within the requirements of the law.

The Commission's recommendation for the County to be the centralized property assessment unit for all jurisdictions in the County is readily distinguishable from the reassessment legislation vetoed by Governor Pataki in 1996. The vetoed legislation did not provide for the County government to be the central assessing authority. Rather, the vetoed legislation provided for a reassessment of all property in the County within five years by the existing assessing jurisdictions, the implementation of a property classification system enabling different tax rates for businesses and residences and a phase in of tax increases for certain property owners. None of those provisions are part of the recommendation adopted by the Commission.

APPROVED

Change the County's Fiscal Year to July 1 to June 30

Section 167.61(1) of the Laws of Westchester County establishes the calendar year as the county fiscal year, and requires Executive submission of a county budget no later than November 15th. Section 167.101(3) requires final budget adoption by December 27th. The total time for budget review and adoption may therefore be only six and one-half weeks, a short period that is includes Thanksgiving, Christmas and other religious holidays. A recurring challenge is the resultant compressed time frame for review and adoption of the county budget.

In order to promote greater public participation, increased transparency, and improved informed legislative oversight during budget review, the Budget and Finance Focus Group considered a change to the current fiscal year. Westchester's revenue and spending projections are very dependent on state actions. In addition to increasing the time available for review, deliberation and approval of the County budget, a fiscal year change might correlate better with the state fiscal year which begins on April 1st. This is currently three months after the county budget must be in place.

The preferred proposal would change the beginning of the fiscal year from January 1 to July 1. The resulting budget review and adoption process would occur during the months of May and June rather than near the general election and holiday periods in November and December. A July 1 start to the fiscal year would also incorporate accurate revenue and expenditures from the already approved New York State budget, assuming the state budget is passed in a timely manner. Even if the state budget is passed after that date, as has not been uncommon in recent years, with a July 1 beginning to the county fiscal year many of the germane state budget provisions affecting local governments may be ascertained before the county budget must be adopted.

There will be consequences of an alteration of the County fiscal for other Westchester local governments. For example, towns will need to estimate amounts that must be paid to the County because the towns and cities must guarantee the collection and payment of the County real property tax levy. However, Commission members with experience in village governments noted that a difference in fiscal years should not be an undue burden to them. Moreover, the collection of taxes for all of the different taxing jurisdictions in Westchester (e.g., County, town, village, school district, etc.) already necessitates the preparation of several tax bills.

Testimony of the Budget Director and County Board fiscal staff to the Budget and Finance Focus Group indicated that some degree of temporary disruption would accompany a transition from the current practice to a fiscal year that begins in July. Certain technical steps needed to accomplish the proposal may need review and legislative approval. Amendments to the Westchester County Tax Law or New York Real Property Tax Law may be required. Commission members commented during deliberations that any technical changes should not be allowed to thwart a desirable policy outcome. It was also noted that numerous jurisdictions have adopted alternative fiscal years.

Counsel for the Commission noted that a previous New York State Attorney General informal opinion had stated that a New York county could not adopt a local law to change the fiscal year different than specified in New York County Law Section 352, which requires a calendar year. Counsel stated that this opinion should not be an impediment to the Commission recommendation because the opinion does not appear to account for the powers conferred on Westchester and other counties that have adopted alternative forms of county government.

The Commission approved the following resolution:

"Section 167.01 of the Laws of Westchester County should be revised to specify that the fiscal year of the County shall begin on July 1 of each year, and end on June 30 of each year."

APPROVED

Together with the Adoption of a July 1 — June 30 Fiscal Year, Establish a Minimum 75 Day Period for Budget Review and Adoption

As part of its consideration of changing the fiscal year, the Commission also considered an expansion of the available time for the County Board's review and approval of the County budget.

The Commission recognized that the adoption of the annual budget for the County government is among the most important actions of the County Board and the County Executive. Therefore, and based upon testimony to the Budget and Finance Focus Group, the Commission determined that a longer period for Board budget review and adoption is warranted. Presently, up to one and a half months is formally available for review and approval, but as a practical matter the period is only about five weeks (after accounting for holidays in November and December). Other large New York suburban counties, such as Nassau and Suffolk, have either longer periods of time for budget review or separate timetables for adoption of operating and capital budgets.

Consideration was given in Commission deliberations to providing a longer period - two or three months - for budget review and adoption. Within this range, a shorter review period may allow for more accurate revenue estimates to be included in the submitted budget, while a longer period provides part-time legislators and County Board fiscal staff more time to evaluate the budget and to confer with constituents. On the other hand, a three month review period might distract Board members from other legislative duties and actions. In addition, the members of the Legislative Staff who were responsible for Budget analysis noted that the availability of actual performance data as late as possible during the current fiscal year greatly facilitated the performance of their duties by narrowing issues, if not eliminating them altogether. A seventy-five day period was offered as a compromise.

The Commission approved the following resolution:

"Consistent with the adoption of a proposal for a July 1-June 30 Fiscal Year, the relevant and germane parts of Section 167 of the Laws of Westchester County should be amended so as to allow at least a time period of seventy-five days between the submission of the budget by the County Executive to the final adoption of the budget, for public comment and hearings and considered legislative review and action."

APPROVED

Establish a Minimum Period for Consideration of Budget Additions and Deletions Prior to a Final Vote

The Commission considered a proposal to require a 48 hour period between the time that the Budget and Appropriations Committee reports its budget additions and deletions to the full County Board and the time that the County Board meets to vote on the budget. The proposal would also require posting the additions and deletions on the County website for at least 24 hours before the County Board convenes for the budget vote.

Section 167.101(1) of the Laws of Westchester County authorizes the County Board to "revise, alter, increase or decrease" items in the proposed County budget, Currently, a public hearing is required after the Budget and Appropriations Committee has approved additions to the County budget, but not deletions from it. Typically, the County Board votes on the County budget on the same day that the Budget and Appropriations Committee approves budget deletions. That is, unlike in some counties (e.g., Suffolk), there is no "aging" period in the Laws of Westchester County for proposed budget amendments.

Commission members with experience at the Board of Legislators related that the day of the budget vote includes lengthy negotiations over additions and deletions, often within the political caucuses and often leaving Legislators who are not members of the majority caucus with no real time to consider the merits of proposed additions and deletions before having to vote on them. The waiting period proposal is intended to ameliorate this situation.

The Commission emphasized that the proposal is part of the overall recommendations for reforming the budget process and should not be viewed as an alternative to, or isolated from, the other Commission proposals.

The Commission approved the following resolution:

"Consistent with this Commission's proposal to change the fiscal year and to extend the period of consideration of the budget, Sections 167.81, .91 and .101 of the Laws of Westchester County should be amended to require that no "adds" or "deletes" are finally voted upon until at least 48 hours after they have been proposed in open session and posted for at least 24 hours on the county website."

APPROVED

Exempt Board of Legislators from the May 1 Deadline for Adding Projects to the Capital Budget

The County Executive's authority for budget preparation also extends to the capital budget portion of the County budget. According to Section 167.131 of the Laws of Westchester County, the County Executive, but not the County Board, could propose amendments to the capital budget, which could subsequently be approved by a two-thirds vote of the County Board. This provision limits the power of the County Board to propose capital projects and to implement a capital plan for the County.

An exception to this practice has been in the County Board's adoption of the County budget. The long-standing custom had been for the Board of Legislators to add projects to the capital budget during the budget negotiation and adoption process. In this way, the County Board approval of the capital budget is consistent with its authority as the governing body for the County. Any items added by the Board of Legislators during budget adoption would still need to meet other requirements of the Laws of Westchester County, such as review by the Capital Projects Committee and the County Planning Board.

The County Attorney has interpreted the Charter provisions to mean that the County Board must follow the applicable procedures for capital projects not considered by the Capital Projects Committee. This would mean the County Board could not add projects that have not been considered by the Capital Projects Committee. However, if a project is considered but not recommended by the Capital Projects Committee, then the County Board may add such project to the budget. This interpretation differs from the previous practice of County Board additions described above.

Counsel to the Commission noted that a Supreme Court justice had recently stated, but not held, that the County Board is different from the department, office or institution referenced in Section 167.21. The case is on appeal to the Second Department. While it was noted during debate that the subject is part of a political dispute that is being litigated, with which the Commission should not get involved, it was also stated that the presence of litigation highlights a need to amend the Charter.

Accordingly, the Commission considered a proposal to amend the Laws of Westchester County to clarify that the Board of Legislators is not subject to Section 167.21, which requires submission of proposed capital projects to the Capital Projects Committee by May 1.

The Commission approved the following resolution:

"Section 167.21 of the Laws of Westchester County should be amended to specifically exempt the Board of Legislators, as a coequal branch of government, from the specified deadline (currently May 1) for the submission of detailed estimates to named officials and agencies, of any capital projects envisioned for the ensuing five years."

APPROVED

Broaden Board of Legislators Access to Department Budget Estimates

Legislators require detailed information on the operation of government departments and agencies to do all aspects of their jobs. In particular, proper legislative oversight of government activities requires unfettered access to information on department functions, services, revenues and expenditures

In governments with a separation of powers structure, the preparation of the County budget is an executive function. In Westchester County, the Budget Director plays a central role in preparing the County budget, which is significantly based on estimated operating and capital needs for the ensuing fiscal year provided by each County department and office. The County Executive submits the resultant budget to the County Board for review and adoption.

In connection with its annual review of the proposed County budget, the County Board requires the direct testimony of individual department heads and their responses to written follow-up questions. Testimony by County Board fiscal staff to the Commission and focus groups stated that the Board of Legislators was denied access to department estimates used to prepare the Executive Budget. Section 167.61(2)(c) of the Laws of Westchester County provides that the "departmental requests for the ensuing year, other than for capital projects" shall be included in the proposed current budget. The proposal would clarify that the Board of Legislators has access to budget estimates prepared by County departments and submitted to the Budget Director for the ensuing fiscal year.

Commission members with experience at the Board of Legislators related that they had not experienced a denial of requested budget information. Recent budgets have varied in the inclusion of department estimates, with the most recent budget including the actual department estimates.

Commission members recognized the need for information in the budget process but also recognized that cooperation among government branches cannot be mandated. The Commission concluded that the County Board's access to department estimates provides balance to the process of budget review and adoption, and therefore approved the following resolution:

"Section 167.21 of the Laws of Westchester County should be amended to provide the Board of Legislators with access to estimates of revenue and expenditures for each department, along with supporting data submitted to the Budget Director, beginning on the same date that the Charter provides that this information is to be provided to the Director."

APPROVED

Add Sustainability and Resilience as Planning Process Values

The County Charter is, in substantial measure, a locus for the community's guiding values. In presentations focused on charter requirements concerning county planning, the Commission's consultant brought to its attention recent work in the region on the values of sustainability and resiliency, captured most fully in the Mid-Hudson Sustainability Plan, published in May of 2013. New York State has prioritized efforts to diminish demands on scarce non-renewable resources and constrain practices that degrade the environment, which if left unaddressed drive up governmental costs for remediation. The aforementioned plan demonstrated many Westchester County facilities at risk from the effects of sea level rise, likely to result in coming decades from global warming. Additionally, Hurricane Sandy, and other recent extreme weather events, dramatically indicated the need for planners to consider assuring the future resilience of public facilities in anticipation of such disasters. Commissioners in deliberation accepted the importance of including these values in county planning, but emphasized that they not be elevated over other values already specified in the Charter.

The Commission therefore recommends that §167.51 of the Laws of Westchester County be revised to read:

"A Capital Projects Committee consisting of the County Executive, as Chairman, Budget Director, Commissioner of Planning, Chairman of the County Board, Chairman of the Committee on Budget and Appropriations of the County Board, Commissioner of Public Works and Transportation, Commissioner of Environmental Facilities, Commissioner of Parks, Recreation and Conservation and Chief Information Officer, shall meet as directed by the Chairman to prepare each year a proposed Capital Plan for the ensuing five years, considering the feasibility of all proposed capital projects, in reference to their necessity, priority, location, cost, method of financing, resiliency and sustainability."

APPROVED

Require Submission and Publication of Quarterly Financial Reports

The regular issuance of financial reports can improve legislative oversight, add transparency, and promote public understanding of the County's fiscal condition. Presently, the Laws of Westchester County do not require quarterly financial reports. The adopted County budgets typically include a provision requiring a cash flow statement on a quarterly basis from the Commissioner of Finance.

The Commission considered a proposal to require the Budget Department to issue and publish quarterly financial reports that would include a comparison of actual and projected conditions (also known as a "variance" report). The report would concentrate on a financial comparison rather than on performance indicators, which would necessitate a more detailed, lengthy report. The data for the first and second quarters are viewed as particularly noteworthy and useful for monitoring fiscal conditions.

The Commission noted that such reports are given to the County Board during the year, with details provided in committee meeting minutes. In recommending the proposal, the Commission underscored the importance of making such quarterly reports available to the public in an accessible manner. Although the preparation and publication of quarterly reports will require additional staff resources, this information is valuable for analysis and oversight.

The Commission approved the following resolution:

"A provision should be added to Section 167 of the Laws of Westchester County requiring that the County Budget Department issue, on specified dates, to the County Executive and Board of Legislators, and publish on the County's website for public information, quarterly financial reports showing the County's actual and projected fiscal condition in relation to the annual budget adopted for that fiscal year."

APPROVED

Provide Public Notice for Pension Cost Borrowing

Pension costs are operating costs, not capital expenditures. Municipal borrowing of money to pay for pension costs portends to "hollow out" future County budgets. Public notice of borrowing for pension costs would, it is argued, advance accountability by communicating the magnitude and justification for such financial actions, which are anticipated to recur as the County's pension liability increases.

The Commission considered a recommendation that would require any future County Executive who intends to use the current NYS Pension System cost amortization / borrowing facility to make a separate and distinct public notification of his or her intentions (dollar amount, cost, explanation) during the budget process.

The Commission concluded that notifying the public of the intention of the County to borrow to pay pension costs would clearly make the County Budget more transparent and provide valuable information to the public on how their tax dollars are being spent.

Accordingly, the Commission approved the following resolution:

Section 167 of the Laws of Westchester County should be amended to require that the County Executive, in his or her budget and budget message, if he or she recommends borrowing of any type to meet pension costs-including using the current NYS Pension System cost amortization/ borrowing facility, to specify the reason for this borrowing, its annual and aggregate cost, its duration and the amount of the debt to be incurred.

APPROVED

Make the County Clerk an Appointed Position

Article XIII, Section 13(a) of the New York State Constitution provides that the Sheriff and Clerk in each county outside the City of New York shall be an elected office, except as authorized in Article IX, Section 1 of the State Constitution. Article IX, Section 1(h) authorizes counties, other than those within a city, to adopt and amend alternative forms of county government. Currently, Section 164.81 of the Laws of Westchester County continues the office of County Clerk as an elective office.

The current Westchester County Clerk, Timothy Idoni, appeared before the Commission and recommended that the County Clerk be an appointed, rather than elected, position. He stated that the duties of County Clerk are generally ministerial - i.e. issuing passports, naturalization certificates and other official documents, recording land use records and other documents affecting real property and serving as the Clerk of the Supreme Court and the County Court - and are expressly governed by Federal and State law and the Laws of Westchester County. In separate interviews with the Executive/Legislative Relationship Focus Group, several current and former County legislators also raised the issue of changing the office of County Clerk from an elected to an appointed position. This would be a first in New York State.

One issue that concerned the Commission was whether the change from elected to appointed office could be accomplished by local law, subject to a mandatory referendum, or whether State legislation was required. Counsel for the Commission advised that the language in Article XIII, Section 13 suggested that the change could be accomplished by local law, subject to mandatory referendum. Counsel also noted that under analogous circumstances, New York State's highest court, the Court of Appeals, upheld the abolition of the elected office of Sheriff by local law and mandatory referendum and the transfer of the duties of that office to an appointed Commissioner/Sheriff of a new Department of Public Safety. One potentially significant difference between the positions of County Clerk and Sheriff is the County Clerk's position as Clerk of the New York State Supreme Court, which is part of the government of New York State and not Westchester County.

The Commission voted to approve the following Resolution:

Due to the mainly ministerial duties of the office of Westchester County Clerk, the position should be changed, either by Charter amendment and referendum or State law, from elected to appointed. The County Clerk should be appointed for a term of four years by the County Executive subject to confirmation by the County Board of Legislators.

APPROVED

Reform Legislative Confirmation Procedures and Designate Interim Powers for Executive Appointments

Under Section 110.21 of the Laws of Westchester County, the County Executive is empowered to appoint, subject to confirmation by the County Board of Legislators, the head or acting head of each department and office, the Chairman of the County Tax Commission, members of County boards and commissions, the Commissioner of Human Resources and a Real Estate Director.

The Commission received correspondence detailing various County officials whose appointments had not been confirmed by the Board of Legislators but were still serving. The authority of those appointed officials to act pending confirmation of their appointments by the County Board of Legislators is unclear. There have been circumstances in the past where such officials have not been permitted to act. Currently, the County Attorney has determined that such officials may act pending confirmation, but that determination is currently the subject of litigation. Also unspecified is any time period for the County Board of Legislators to act to confirm or reject the County Executive's appointees. The Commission determined that these issues should be specifically addressed in the Laws of Westchester County and adopted the following resolution:

Section 110.21 of the Laws of Westchester County should be amended to specify that:

1. For appointments by the County Executive to positions that require confirmation by the Board of Legislators, the Board of Legislators shall have 90 days, measured from the date the letter of appointment is delivered to the Clerk of the Board of Legislators, to confirm or reject the County Executive's designee;

2. Pending confirmation or rejection, the County Executive's designee for such a position shall have power to act and, if a member of a board, to serve and vote, on an interim basis from the date of delivery of the letter of appointment to the Clerk of the Board of Legislators until the appointment is confirmed or rejected;

3. The County Executive's designee shall be deemed confirmed if the Board of Legislators does not act within the allotted time period, or any extension of that time period that may be agreed to by the County Executive and the Board of Legislators; and

4. A person whose appointment is rejected by the Board of Legislators may not be re-nominated for the same position during the term of the County Legislature that rejected the appointment.

APPROVED

Re-examine the County Ethics Code

Mark Davies, Executive Director of the New York City Conflicts of Interest Board, the Ethics Board of the City of New York, addressed the Commission on the subject of municipal ethics.[2] Mr. Davies outlined the purpose, principles and content of an effective government ethics law. According to Mr. Davies, "the purpose of government ethics laws lies in promoting both the reality and *the perception* of integrity in government by *preventing* unethical conduct (conflict of interest violations) *before* it occurs. From his perspective, an effective government ethics law:

- "Promotes not only the reality but also the *perception* of integrity in government because no matter how honest the government is in fact, it can not function effectively if citizens believe their officials are self-serving or corrupt;
- Focuses on *prevention,* not punishment;
- Recognizes the inherent *honesty* of public officials;
- Seeks thus to *guide* those honest officials, not imprison dishonest ones;
- Is, therefore, not intended to (and will not) catch crooks, which is the providence of penal laws, law enforcement agencies (including inspectors general), and prosecutors; and
- Ensures that the public has a stake in the ethics system.

Mr. Davies described the three pillars upon which an effective local government ethics law rests:

(1) "A simple, comprehensive, and comprehensible *code of ethics* (technically, a conflicts of interest code); and
(2) Sensible disclosure;
(3) Administered by an *independent ethics board* with full authority to interpret and enforce the ethics law for *every* public official who is subject to it."

In light of these standards, he identified several areas where revisions to the Westchester County Code of Ethics were necessary to bring the code up to the standards of a modern, effective municipal ethics law. He also provided the Commission with draft legislation to accomplish those ends. These materials are included in the Appendix to the Commission's report.

The Commission also sought information from Westchester District Attorney Janet DiFiore as to whether there would be any Charter amendment that would assist prosecutors in protecting the public from government corruption. District Attorney DiFiore responded that whenever there is an allegation of corruption in government it is fully investigated and prosecuted if warranted. There is a Public Integrity Unit for this purpose. She said that the New York State laws under which her office operates could be improved, but that

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[2]Mr. Davies is also the former Executive Director of the Temporary New York State Commission on Local Government Ethics, and Deputy Counsel to the New York State Commission on Government Integrity. He is Chair of the Municipal Law Section of the New York State Bar Association, where he also co chairs the Government Ethics Committee, is a member of the Board of Directors of Global Integrity, an advisor to the American Law Institute's project on public integrity, former Chair of the Municipal Ethics Sub-Committee of the New York State Bar Association, President's Task Force on Ethics, and an adjunct Professor Law at Fordham Law School. He has written and lectured extensively on government ethics, both nationally and internationally.

there is no Westchester County Charter revision that would be helpful or necessary to her office in protecting the public.

Against this background, the Commission adopted the following resolutions:

A comprehensive review and revision to the County Code of Ethics should be undertaken which addresses, among other matters, the issues identified in the recommendations for change proposed and presentations made and draft legislation submitted to the Commission.

In accord with best practices, Section 192 of the Laws of Westchester County should be revised to assure that qualified, volunteer Board of Ethics members of high integrity are removed only for cause, hold no other County Government positions, are parties to no County Government contracts, engage in no lobbying of the County Government, and do not appear before the County Government in a representative capacity.

APPROVED

Establish a Council of Governments

The Local Government/County Government Relationship Focus Group examined the relationship between elected officials at the county and municipal levels. The Focus Group was advised that periodically, and on an informal basis, the County Executive, Chairman of the County Board of Legislators, and President of the Westchester Municipal Officials Association have convened meetings of the chief elected officials in the County to discuss issues of mutual concern.

The Focus Group recommended Commission consideration of the establishment of a formal and regularized procedure to facilitate greater intergovernmental communication and cooperation among elected officials. Charter provisions for Council of Governments in other parts of New York State were considered. The Commission agreed that advancing communication, coordination and collaboration among and between County government and local governments within the County could achieve greater economy, efficiency, equity, effectiveness and response of public service.

Accordingly, the Commission adopted the following resolution:

Resolved: A Council of Westchester Governments should be created to consist of the chief elected municipal officials of all cities, towns and villages in the County, the County Executive and Chairman of the County Board of Legislators. The Council should be chaired by the County Executive and a representative of the Westchester Municipal Officials Association, on a rotating basis. The Council should meet at least twice annually. Additional meetings as required may be called by either of the chairs.

APPROVED

Convene a Charter Revision Commission Every Ten Years

Unlike the charters of many other New York counties, the Westchester County Charter specifies no process for regular periodic review of its provisions. The current Charter Revision Commission, like its two predecessors, was established by discretionary action of the county government. (Act No. 34 of 2011) The last time a Charter Revision Commission was convened was in 1987 and a final report of such Commission was issued in 1988. The Commission believes that a review of the Laws of Westchester County should take place on a required, regular rather than occasional basis.

The scope of the task and time required for reviewing them, in the frame of rapidly changing social and economic conditions and the development of new best governance practices, convinced Commissioners of the need to provide for regular, systematic periodic consideration of the Laws of Westchester County by a group of interested, engaged citizens with a variety of perspectives who are not involved in day-to-day governance. The Commission considered but rejected the idea of the establishment of a permanent Charter Revision Commission. The Commission believes that the required decennial convening of a Charter Revision Commission that is balanced politically and demographically and is representative of all the diverse segments of the County would help assure responsive, effective government in the county into the future.

Accordingly, the Commission adopted the following resolution:

The Laws of Westchester County should be revised to provide for the periodic convening of a Charter Revision Commission every ten years of demographically and geographically diverse membership to assure that the Laws of Westchester County continue to provide optimally, and in accord with best practices, for democratic, responsive, representative government for Westchester County.

APPROVED

Fill Short Term Vacancies in Legislative Office by Appointment from the Same Political Party

Vacancies in legislative office may occur as a result of resignation, death, removal from office or forfeiture of office. Such vacancies are filled by election or appointment. Section 107.11(2)(a) of the Laws of Westchester County provides that a vacancy in the office of County Legislator occurring more than seven months prior to expiration of his or her term shall be filled for the remainder of the unexpired term by special election to be held not later than ninety days from the date of such vacancy. Alternatively, Section 107.11(2)(b) of the Laws of Westchester County provides that when a vacancy in the Office of County Legislator occurs within seven months prior to expiration of that member's term of office, the vacancy shall be filled by appointment by the remaining members of the Board. Charters of other New York State counties were examined to determine how they provided for filling vacancies in legislative offices.

The Commission was concerned that the application of this later provision in the Westchester County Charter might potentially disenfranchise voters who elected a candidate of one political party by resulting in the appointment of a member of another political party as his or her interim successor.

Accordingly, to address this situation, the Commission adopted the following resolution:

Section 107.11(2)(b) of the Laws of Westchester County should be revised to require any person temporarily appointed to fill a vacancy on the Board of Legislators to be the nominee of the party legislative caucus and of the same political party as the immediately proceeding incumbent in the position.

APPROVED

Determine Initiation and Termination of Executive Disability

Section 110.51 of the Laws of Westchester County provides for continuity in government in the event of the disability of the County Executive. However, there is no provision in the Charter for determining when such a disability begins or ends. Provisions of other charter counties in New York State were examined and considered. Options include self-declaration by the incumbent or a determination of disability by qualified and competent medical authority.

The Commission determined that the Laws of Westchester County should be amended to establish a procedure for determining when disability of the County Executive begins and when it ceases.

DISAPPROVED

Change the Form of County Government

The presence of friction and disagreement between the current elected County Board and elected County Executive on several policy and legal issues affecting the County as this Commission met, leading to several lawsuits between the parties, suggested the necessity for a comprehensive review of the structure of County government, with particular attention to the relationship between its executive and legislative branches. The primary question was whether it was desirable to change the form of county government either to one with a county-wide elected chairperson of the legislature with an appointed manager (council manager), or one with an elected county executive with a county manager. To assist it in answering this question, the Commission reviewed alternative structures of county governments within and outside New York State with former and present legislators, a government and policy expert as well as two former county executives.

The traditional American model for governance at the national and state levels is often described as "separate institutions sharing powers." It includes in its design a purposeful tension between an elected chief executive and a legislative branch comprised of elected representatives. This structure has been adopted for Westchester and many larger American local governments, albeit without a bicameral legislative branch. The executive and legislative branches are expected to check each other, and are required to collaborate, often through compromise, to get things done and to be accountable to the voting public. When it exists common partisan control of both branches often — but not always - facilitates overcoming the built-in institutional tension. Depending upon leadership skills, ideologies, personalities and circumstances, divided partisan control may exacerbate this tension, or even lead to gridlock, as evidenced at the time of this writing by events at the national level.

Most American localities, including some large cities and counties, do not employ a separation of powers system. Policy making power in them is vested entirely in elected boards; there is no elected person with the range of executive powers given the executive in a separation of power system. In some of these jurisdictions an appointed executive is employed. This may be a Manager or an Administrator.

The council manager form of government with a professional county manager is the predominant system of government in counties outside, but not within, New York State. In New York, the boards, councils or legislatures of counties, cities, towns and villages may appoint a "Manager," with powers specified in a charter or local law. The council-manager form is premised on the idea that administration in local governmental can and should be separated form from policy-making. Under this form, a credentialed and professionally trained public manager, hired by and accountable to the legislative body, performs designated executive functions. This is the practice in many of the cities, towns and villages within Westchester County. Alternatively, some municipalities have hired an "Administrator" to perform some but not all functions usually understood as executive.

In the council manager system proposed by some commissioners for Westchester, the elected County Executive position would be eliminated and the legislative and executive functions would be combined in the County Board of Legislators. The chair, the presiding officer of the legislature, would be directly elected

countywide, and not by the members of the body. Policy making authority would reside in the board, with a conventional majority decision rule and the chair casting a single vote. A professionally trained County Manager would be appointed by and responsible to the Board to serve as the chief operating officer.

The council manager form of government, advocates on the Commission said, enables the government to deliver services in a professional, non-partisan and cost effective manner. To ensure responsible operation of government, performance objectives may be adopted which must be met by the manager. In their view, adoption of the county manager form could ameliorate the gridlock of the current system.

Alternatively, some Commission members proposed that requiring an elected County Executive to appoint a professional County Manager or Administrator subject to Board of Legislators approval might also improve the operations of County government. The County Manager would be a trained, credentialed professional, rather than a person chosen primarily on a political basis, and could be appointed for a fixed term. The qualifications and duties of such a position would be clearly delineated in the Charter.

Other commissioners, however, were strongly opposed to changing the present form of County government. They argued that Westchester County has been operating effectively under its present separation of powers system for decades. Manager systems are most common in smaller, less diverse jurisdictions. The county executive is uniquely situated to lead a large and diverse county, especially on difficult matters they said, as he or she is a broadly known and widely acknowledged central focus for decision making, and draws special legitimacy by virtue of his or her elected status. Having an elected executive, they continued, presents a direct opportunity for holding the overall performance of county government accountable through a single vote at elections that simply does not exist in the Manager system. Moreover, when the entire record since the adoption of the charter is considered (and including the most recent past), they argued, it is evident that the natural tension between the executive and legislative branches of government often leads to constructive compromise. Moreover, since the County Executive appoints a Deputy County Executive who has classically been a highly competent professional responsible for the administration of County government, and acts as a manager per se, there seems to be no reason to make changes to the title, or current Deputy County Executive position. In general, they pointed out, the delivery of services has not been compromised under the present form of County government.

Accordingly, the Commission , by an evenly split 7-7 vote, disapproved a resolution recommending that the Laws of Westchester County be revised to create the equivalent of a council manager form of government, eliminating the elected office of County Executive and vesting the legislative and executive functions in a unicameral County Board of Legislators, with the Chair of the Board elected on a countywide basis, and the creation of the position of County Manager/Administrator to serve as chief operating officer for the County.

In addition, the Commission, again by an evenly split 7-7 vote, disapproved a resolution recommending that Chapter 110.21 of the Laws of Westchester County be amended to create the position of County Manager/County Administrator, or First Deputy County Executive, appointed by the County Executive with the advice and consent of the Board of Legislators, to serve as the chief operating officer for the County.

DISAPPROVED

Change the Role of the County Attorney

Chapter 158 of the Laws of Westchester County establishes a Department of Law under the direction of a County Attorney appointed by the County Executive and confirmed by the Board of Legislators. The County Attorney:

(a) "shall have charge of and conduct all of the civil law business of the County of Westchester and its departments"

(b) "shall have charge of and conduct all legal proceedings instituted for and on behalf of or against the County . . ."

(c) "shall prepare and approve as to form, all leases, deeds and contracts of the county which are to be executed by the County Executive or on behalf of the county board, also all contract bonds and/or undertakings executed to the County, and certify that the same are in proper form and properly executed."

(d) "shall be legal advisor to the County Board and to each and every board, body, commission or officer of the County of Westchester and to each and every employee of the County of Westchester..."No such officer, employee, board, body, commission or department of the county shall have or employ any attorney or counsel at the expense of the County unless specifically authorized to do so by the County Board."

The role of the County Attorney was examined by the Charter and Code Focus Group. Issues discussed included (1) whether the County Attorney can adequately represent both the County Executive and the Board of Legislators, particularly when they are in disagreement on matters of law; (2) If not, should there be an attorney hired for the Board of Legislators; (3) should such an attorney be an employee of the County or a consultant; and (4) should there be more than one attorney hired.

The Focus Group noted that notwithstanding the requirement in Chapter 158 that the County Attorney represent both the executive and legislative branches of County government, there has been a history, particularly recently, of the two branches asserting conflicting positions on interpretations of the Laws of Westchester County or other matters of law. Indeed, currently the Board of Legislators and certain board members have filed certain lawsuits to compel the County Executive to enforce a law passed by the County Board and otherwise to abide by the Laws of Westchester County. In these instances where there is a conflict between positions of the County Board and the County Executive, the County Board has been required to hire outside counsel because the Charter does not provide for attorneys to represent the Board of Legislators in these types of matters.

The Commission and the Focus Group received testimony on these issues from former county executives and county attorneys, a former county legislator and the present County Attorney. Additionally, charter provisions in other counties were examined. None of the county attorneys who appeared recommended the establishment of separate counsel for the Board of Legislators. Both former county executives recognized that there were situations where the two bodies were in conflict and in those situations the County Board would

have to retain its own lawyers. By contrast, the former legislator believed that the County Board should be able to hire its own attorneys.

During the debate on this particular issue, members of the Commission expressed concerns about the possibility of opinion shopping if there were separate lawyers, and about the cost of additions of new staff. Commission members also recognized the fact that, over time, the County Attorney has discharged his/her duties to both the Executive and Legislative branches in an appropriate fashion.

Accordingly, a resolution that, "the County Charter be amended to provide for a legislative counsel appointed by and accountable to the Board of Legislators, to represent its interests, advise it on legislative matters and serve at its pleasure," was rejected by the Commission.

DISAPPROVED

Enable Electors to Propose and Adopt Legislation Through Initiative and Referendum

Initiative is the power of the electors to propose legislation and referendum is the power to approve or reject legislation independent of the elected legislative body. Absent enabling legislation from the State Legislature, initiative and referendum is not authorized for local governments in the State of New York for most purposes.

Allowing the adoption of legislation through initiative and referendum, often characterized as "direct democracy," provides citizens with the ability to enact laws specifically addressing their concerns. It provides voters the ability to act on a matter when their elected representatives fail to do so. Advocates argue that initiative and referendum is essential for matters in which legislators may be self-interested or that might limit the powers or resources available to the government itself.

While some members found benefits in initiative and referendum, the necessity for the adoption of this practice was questioned by the Commission. Representative government has distinct strengths when it works well, among them the capacity for informed deliberation and negotiated compromise. Elected representatives are expected to provide leadership. Should they fail to carry out their duties, they may be turned out of office. Moreover, there are extensive differences in detail and effects in and from the initiative and referendum provisions now in force in other States and localities. The complexity of this issue and the current problems experienced in other States that employ initiative and referendum, resulted in a decision by the Commission to disapprove a resolution recommending that State enabling legislation be sought to authorize the County to adopt local legislation allowing citizens to initiate legislation or charter amendments, subject to the approval of the general electorate at referendum.

DISAPPROVED

Lengthen the Time for the Budget Process in the Existing Fiscal Year

Concomitant with its consideration of a change in the county fiscal year, the Commission considered as an alternative a proposal to lengthen the post-Election Day timetable for budget submission, review, and adoption so as to maximize the available time for legislative review and public participation in the budget process under the current fiscal year model. For example, such a change might require the budget to be submitted two days after Election Day, rather than on November 15 and change the day of final budget adoption from December 27 to December 29.

In evaluating this proposal, Commission members first focused their discussion on whether budget submission and review should occur before or after the general election in November. Those favoring a pre-election budget submission noted that this is already the practice in several large New York counties (e.g. Nassau, Suffolk, Onondaga counties). It would allow for more time to review the budget, and enhance accountability for budget decisions at the polls. Increased politicization was unlikely, advocates said, because of the ever-present campaign environment that already currently prevails. Moreover, with such a change any incumbent County Executive seeking reelection, as the originator of the budget, would already be campaigning on his or her own budget plan.

Commissioners opposed to a pre-election budget submission and review feared that this change in timing would lead to further undesirable politicization and posturing concerning the county budget choices just prior to the election, with diminishing focus on genuine deliberative activity focused upon community needs and priorities.

To avoid possible conflicts between elections and the budget process, the Commission considered conducting the budget process either entirely before or entirely after the election. However, requiring the budget to be released earlier reduces the time available to receive accurate revenue estimates, such as for the sales tax, a source that is particularly robust during the fourth quarter of the year.

Alternatively, any lengthening of the time for public and legislative consideration of the budget within the post-election period, while retaining the current fiscal year, would be modest, and should not be considered in isolation from the other Commission budget process proposals.

Finally, an additional concern expressed in Commission deliberations was that a recommendation to alter the existing budget timetable would diminish the force of the preferred recommendation, to alter the fiscal year.

The Commission disapproved a resolution to lengthen the time for the budget process within the existing fiscal year.

DISAPPROVED

Establish a Biannual Budget Cycle

An alternative to expanding the budget review timetable within a single fiscal year is to change from a single year to a multi-year budget. Some states have a biannual budget cycle, but no New York County has as yet adopted this practice. In a biannual budget cycle, the approval for budget and appropriations would occur at a determined time every other year, rather than every year.

Proponents argue that use of a biannual budget might be used to depoliticize budgeting to some degree, if the process is timed for budget adoption during years in which general elections for county legislators and county executive are not held. Additionally, they say that the biannual cycle might allow more time for budget preparation by staff and review by elected officials. Also, the longer budget period may allow for a more uniform pattern of expenditures by the County and greater predictability, valued by bond rating agencies.

However, of the states that have a biannual budget cycle, most have an adjustment process that occurs within the cycle to account for actual revenues received and expenditures made in the earlier part of the budgeted fiscal period. This adjustment process itself becomes similar in scope to annual budget review and adoption. In addition, the process for or degree of legislative oversight of budget adoption and implementation would need to change significantly to accommodate a biannual period.

Commission members concluded that a biannual cycle is not practical, although multi-year budget forecasting is worthwhile. In testimony to the Commission, E.J. McMahon of the Empire Center for New York State Policy encouraged such multiple year forecasts as employed in the five-year financial plan used by New York City.

The Commission disapproved a resolution to establish a bi-annual budget process.

DISAPPROVED

Establish a Five Year Sunset Provision for Projects in the Capital Plan

Based upon practice in other counties, the Commission's consultant recommended that consideration be given to amending the Laws of Westchester County to require that any capital project authorized and made a part of the County capital budget automatically expire on December 31of the fifth fiscal year of its initial inclusion in that budget, unless funds had already been expended for any component part of that project during that period of time, or the duration of the project was extended by formal county reauthorization prior to its expiration date. The intent of such a provision is to assure the integrity and accuracy of the budget process by removal of projects that appeared viable, but for which there was little realistic expectation of realization. In deliberation, commissioners found little merit in this idea. Most agreed that contingencies often arise that require postponing of some scheduled capital projects in favor of others, but that is important to leaders and community members that those not acted upon remain in the plan, and therefore viable. Flexibility on these matters, they added, is important to the County's leadership.

The Commission did not act on this proposal.

DISAPPROVED

Intergovernmental Relations Liaison

The Commission considered the issue of communication between local governments and the County at a managerial and administrative level. During discussions, it became clear that the managers and administrators of local governments sometimes encounter difficulties communicating and dealing with County agencies.

In order to address this concern, consideration was given to amending the Laws of Westchester County to create a new position entitled Intergovernmental Relations Liaison (the "Liaison"). The function of the Liaison would be to act as an ombudsman and to facilitate communications on a managerial and technical level between appropriate County personnel and municipal administrators and managers. Additionally, it was suggested that the Liaison could, upon request, provide mediation or arbitration services to assist in resolving inter-municipal disputes and be available to facilitate and encourage the implementation of shared services on a voluntary basis using inter-municipal agreements and inter-municipal participation in capital projects. The Liaison could also assist with management of the Council of Governments recommended by the Commission.

After deliberation, the Commission concluded that adding a position, in effect expanding County government, was not prudent at this time of fiscal constraint. Moreover, the Chief of Staff to the County Executive already handles the function of facilitating communication between local municipalities and the County. There is also a well documented history of shared services between the County and local governments.

Accordingly, the Commission disapproved a resolution recommending that the Laws of Westchester County be amended to create a new position of Intergovernmental Relations Liaison, appointed by the County Executive to serve at his or her pleasure with the advice and consent of the Board of Legislators, to act as an ombudsman and to facilitate communications between county and municipal administrative and managerial personnel and to provide staff support for the newly created Council of Governments.

DISAPPROVED

Subject Pension Cost Borrowing to Referendum

In order to make the County Budget more transparent and to provide valuable information to voters on how their tax dollars are being spent, the Commission approved a resolution recommending amendment of the Laws of Westchester County to require the County Executive to disclose in the budget and budget message if he or she is recommending borrowing to meet pension costs and, if so, to specify the reason for the borrowing, its annual and aggregate cost, its duration and the amount of the debt to be incurred.

A second related recommendation considered by the Commission would have added a requirement subjecting any proposed borrowing for pension-related costs (similar to other capital borrowing thresholds) to a voter referendum. Commission members questioned the breadth and legality of such a requirement. This recommendation was disapproved by the Commission.

DISAPPROVED

Include Projected Operating Costs in the Capital Plan for Pending and Proposed Capital Projects

Based upon a review of practices in other counties, the Commission's consultant recommended that consideration be given to amending Section 167.61.4 of the Laws of Westchester County so as to require, as part of the proposed capital plan, a current estimate of annual operating costs, when completed, for each new pending and proposed capital project. Some commissioners initially agreed that this would be valuable information for inclusion in the planning process. After discussion, however, the general view was that that this requirement would generate needless extra work for the many capital projects of modest size or, that for other reasons, would have no material impact on the County's annual operating costs. Moreover, operating cost projections are generated as a matter of course for major capital projects.

The Commission did not act on this proposal.

DISAPPROVED

Establish a County Parks District

In 1961, Chapters 134 and 249 were added to the Laws of the Westchester County establishing a Department of Parks, Recreation and Conservation. The Department was charged with the responsibility to control, manage, maintain and operate County parks and recreational activities. Funding for the Department's operations is provided through annual budgetary appropriations.

A former Commissioner of that Department, Joseph Stout, met with the Charter and Code Focus Group and suggested the creation of a separate County Park District to assume the responsibilities of the Department and to establish a dedicated funding source, outside the regular budget process, for park, recreation and conservation operations, activities and projects. Mr. Stout believed that this would prioritize such services and create opportunities to obtain private grants that could be directed solely for these purposes.

Unlike water and sewer districts, however, the County Law does not expressly authorize the creation of parks districts. Commission members questioned why park services should be given priority in funding over other County functions and services. Concern was also expressed that creation of a County Parks District as a separate funding entity would be seen by County residents as simply "a new tax".

The Commission voted to reject this proposal.

WITHDRAWN

Reconstitute the Playland Commission

From its creation in 1928 until 1940, Playland Park was operated by the Westchester County Park Commission. Thereafter, through the end of 1980, Playland Park was operated and managed by the Playland Commission, a public benefit corporation created by act of the State Legislature. The State enabling legislation contained a sunset provision and expired in accordance with its terms on December 31, 1980.

In 1983, the State Legislature enacted legislation authorizing the County, by local law, to create a new Playland Commission. No such local legislation has been enacted in the ensuing thirty years.

A proposal to reconstitute the Playland Commission in accordance with the State enabling legislation enacted in 1983, brought before the Commission at the behest of the Charter and Code Focus Group, was initially tabled, and subsequently withdrawn without debate.