



Committee on Legislation

~AGENDA~

Monday, July, 10, 2017

2:01 PM

Committee Chair: Virginia Perez

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

www.westchesterlegislators.com

CALL TO ORDER

This meeting is joint with the Committee on Public Safety & Social Services.

MINUTES APPROVAL

1. Monday, June 12, 2017 at 10:00 AM
2. Monday, June 19, 2017 at 1:00 PM
3. Monday, June 26, 2017 at 1:01 PM

I. ITEMS FOR DISCUSSION

1. **(ID # 9928) Act – LEGISLATORS BORGIA, SHIMSKY, A. WILLIAMS, PARKER, JENKINS, L. WILLIAMS, BOYKIN, PEREZ: Proposed Act - Immigrant Protection Act:**

Forwarding a proposed "ACT" regarding the policy of the County of Westchester on Immigration Enforcement.

II. OTHER BUSINESS

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

III. RECEIVE & FILE

ADJOURNMENT



Committee on Legislation

~MINUTES~

Monday, June, 12, 2017

10:00 AM



Committee Chair: Virginia Perez

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

www.westchesterlegislators.com

CALL TO ORDER

Leg. Maisano opened the meeting at 10:15am.

Table with 4 columns: Attendee Name, Title, Status, Arrived. Lists attendees like Virginia Perez, Benjamin Boykin, Gordon A. Burrows, etc.

Others In Attendance: BOL: G. Friedman, G. Zuckerman, T. Bernard, M. Richter, E. Hendrickx, Y. Valencia, D. Linhardt GUESTS: E. Forchheimer, L. Wolf, B. Hubert, S. Bederman, A. Posnick, H. Horowitz, K. Elley, D. Johnson, S. Richman, P. Read, J. Saslow, M. Guvenic, R. Hyman, D. Gast, M. Beaver, E. Suerrid, C. Lavan, N. Khader, A. Zackrom, L. Myerson, Cheihk Ahmed, F. Gelman.

MINUTES APPROVAL

1. Monday, May 15, 2017 at 1:00 PM

On motion of Legislator Maisano, seconded by Legislator Marcotte, the minutes were approved 9 - 0.

I. ITEMS FOR DISCUSSION

1. RES-2017-76 Resolution - Proposed Reso - Anti BDS Movement:

A proposed Resolution condemning the international Boycott, Divestment and Sanctions movement.

Leg. Maisano opened the meeting by explaining the background of the resolution and why it was changed from an act to a resolution.

Chair Kaplowitz began the discussion by noting that it was great to see people here with signs that say "protect free speech". That's why we're here and we can't agree with you more. We can agree to disagree but the beauty and strength of our system is that we all

Minutes Acceptance: Minutes of Jun 12, 2017 10:00 AM (MINUTES APPROVAL)

have the right to have our views expressed and whether others agree with it or not it's the weight of the evidence and strength of our argument that wins out. This was a two part effort. The first was a resolution that was discussed at our May meeting and passed which dealt with opposing anti-semitism, Islamophobia and all other kinds of hate.

This Resolution before us today is joining, through this resolution, the Governors of all 50 states and the counties surrounding us-Rockland, Nassau, Suffolk, New York, in opposing the BDS movement. We have heard from many of our constituents on this issue and will continue to hear from the greater Westchester community, At the same time we are representatives and have a voice and a vote as well. We are not silenced and have a responsibility to also weigh in on great societal issues.

Freedom of speech does not mean complete agreement on all issues. It means that we have a right to express ourselves. It means that we can agree to disagree. We have a resolution here that Mr. Maisano and I have put forward and believe that it is timely and urge my colleagues to support it. It supports the State of Israel which is one the greatest allies of the United States, with a vibrant democracy. Supporting this resolution does not mean that we support every action that Israel takes any more that pledging allegiance to America means that we support everything it does.

Leg. Maisano stated that he doesn't believe that this resolution violates anybody's right to free speech. The Legislators also have the right to free speech and that is what we are here today to do. He said that the fact that people are advocating to boycott Israel is outrageous and wrong-headed. Israel is the beacon for liberty and democracy in the Mideast and has been an ally of the United States. Therefore he will be supporting this resolution. Leg. Perez agreed and noted that we in Westchester reject any movement that seeks to malign the Jewish people or any other group of people. Leg. Burrows noted that voting it out of committee means only that it will go on the next Board of Legislator's agenda and give all legislators a chance to discuss and vote on it.

Leg. Williams noted that she has read all literature on both sides and, given the circumstances, feels that she must vote against it. She is not against the State of Israel and believes it should be given a chance to prosper and grow, however she also feels that the Palestinians and others in that area have to have some sort of ability to react to some of the horrible things that are happening, so she will vote no. Leg. Shimsky noted that there are some bad actors in the BDS movement as well as in Israel. The BDS movement is problematic because Israel is not alone in violating peoples rights and the rights of ethnic minorities, but by singling out Israel and letting the other bad actors off the hook, it sends off the wrong message and puts a wedge in for more anti-semitism. However, people have an absolute right not to buy Israeli goods if they don't want to do so. A resolution that is just a statement of sentiment is the best way to balance protecting the State of Israel against people who would exploit reasoned protest for really bad ends, but making sure that people who have another opinion are not forced to suffer by loss of business with the County or other means.

Leg. Boykin said that we are seeing democracy in action today and both sides have had a chance to advocate for their view and now it is time for the Legislators to make a decision. Having listened to many people, I feel that this is the best course of action we can take.

With a motion by Legislator Maisano and seconded by Legislator Kaplowitz, the item was approved with a vote of 8- 1.

To view this meeting, please go to:
<http://westchestercountyny.iqm2.com/Citizens/default.aspx>

RESULT: SIGNED BY COMMITTEE

II. OTHER BUSINESS

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

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Kaplowitz, seconded by Legislator Maisano, the Committee adjourned at 10:35 AM.

Minutes Acceptance: Minutes of Jun 12, 2017 10:00 AM (MINUTES APPROVAL)



Committee on Legislation

~MINUTES~

Monday, June, 19, 2017

1:00 PM

Committee Chair: Virginia Perez

DRAFT 2

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

www.westchesterlegislators.com

CALL TO ORDER

Item #9330 is joint with the Committee on Public Safety & Social Services.

With a quorum present, Leg. Perez, called the meeting to order at 1:35 PM

Attendee Name	Title	Status	Arrived
Virginia Perez	Chair	Present	
Benjamin Boykin	D5 Legislator	Present	
Gordon A. Burrows	D15 Legislator (Minority Whip)	Present	
James Maisano	D11 Legislator (Vice-Chairman of the Board)	Present	
Sheila Marcotte	D10 Legislator	Present	
MaryJane Shimsky	D12 Legislator	Present	
John G. Testa	D1 Legislator (Minority Leader)	Present	
Alfreda Williams	D8 Legislator (Majority Whip)	Present	
Michael Kaplowitz	D4 Legislator (Chairman of the Board)	Present	

Others In Attendance: LAW: L. Trentacoste BOL: Leg. C. Borgia, Leg. Tubiolo, G. Friedman, G. Zuckerman, T. Limengo, A. Meyer, O. Herrera, M. Richter, D. Linhardt, Y. Valencia
GUESTS: J. Baker, J. Lorenzo, A. Lake, K. Halas.

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

1. **RES-2017-75 Resolution – Resolution- Ethics Waiver Request-Baker:**

A RESOLUTION granting a waiver of the Westchester County Code of Ethics pursuant to the Laws of Westchester County Section 883.21(h)(2) to John Baker, Director of Program Development at the Westchester County Department of Parks, Recreation and Conservation to accept an offer of employment with Westchester Land Trust.

Chair Perez invited John Baker to introduce himself and he gave a statement as to why he was requesting a waiver. He noted that he had retired from County service as of May 30, 2017 and on June 1 started with Westchester Land Trust as the Land Conservation Project Manager. His position there will be to bring new properties into their portfolio by either easements, purchases or through other organizations. Leg. Kaplowitz noted that the Ethics Task Force had met to consider Mr. Baker's request and had recommended the waiver to the Legislation Committee. Their recommendation is non binding.

Minutes Acceptance: Minutes of Jun 19, 2017 1:00 PM (MINUTES APPROVAL)

Leg. Burrows discussed with Mr. Baker how his previous experience will help him in his new position.

With a motion by Legislator Maisano and seconded by Legislator Burrows, the item was approved with a vote of 6 - 0.

RESULT: SIGNED BY COMMITTEE

2. (ID # 10198) Communication – HON. MICHAEL KAPLOWITZ: County Ethics Waiver Request - Baker:

Forwarding a letter from a former County employee requesting a waiver to the County Code of Ethics pursuant to the Laws of Westchester County, Section 883.21 (i)(3).

RESULT: REVIEWED

3. RES-2017-78 Resolution – Proposed "Thriving Families Resolution":

The proposed "Westchester County Thriving Families" RESOLUTION.

Leg. Kaplowitz noted that around a year ago there was a similar resolution, similar in tone, but slightly different construction. He gave credit to the Task Force and Leg. Borgia and Kathy Halas who have chaired it, that we have a Thriving Families resolution that hits a really nice tone. It talks about supporting, advocating, considering principles and it discussed the various issues of safety, safe and affordable housing, child care, after school programs, liveable wages and benefits, reasonably priced and accessible public transportation, among others. It creates a measurement that allows us to recognize needs on budgeting and perhaps additional need .in the future.

Kathy Halas, Co-Chair of the Task Force along with Leg. Borgia, stated that the Task Force was started to provide additional input for the Board to consider on what is happening in Westchester. They held four community forums and learned about issues that would enhance residents lives and were common to most communities, such as transportation, jobs, housing, services for children etc. This resolution is aspirational and does not obligate Westchester County, nor does it single out Westchester as the only responsible party. Rather, it's very clear in the language that if we are to achieve a thriving Westchester for all families then it is incumbent on the non-profit community, on business and philanthropy and individuals to work towards that goal. A short discussion followed.

With a motion by Legislator Boykin and seconded by Legislator Burrows, the item was approved with a vote of 6 - 0.

RESULT: SIGNED BY COMMITTEE

II. OTHER BUSINESS

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

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Testa, seconded by Legislator Maisano, the Committee adjourned at 1:46PM.

Minutes Acceptance: Minutes of Jun 19, 2017 1:00 PM (MINUTES APPROVAL)



Committee on Legislation

~MINUTES~

Monday, June, 26, 2017

1:01 PM

Committee Chair: Virginia Perez

3
DRAFT

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

www.westchesterlegislators.com

CALL TO ORDER

This meeting is joint with the Committee on Public Safety & Social Services and Budget & Appropriations.

With a quorum present, Legislator Maisano called the meeting to order at 1:15 PM.

Attendee Name	Title	Status	Arrived
Virginia Perez	Chair	Absent	
Benjamin Boykin	D5 Legislator	Present	
Gordon A. Burrows	D15 Legislator (Minority Whip)	Present	
James Maisano	D11 Legislator (Vice-Chairman of the Board)	Present	
Sheila Marcotte	D10 Legislator	Present	
MaryJane Shimsky	D12 Legislator	Present	
John G. Testa	D1 Legislator (Minority Leader)	Present	
Alfreda Williams	D8 Legislator (Majority Whip)	Present	
Michael Kaplowitz	D4 Legislator (Chairman of the Board)	Present	

Others In Attendance: CEO: K. Plunkett, P. Oliva LAW: R. Meehan BUDGET: L. Soule TLC: J. Policano BOL: Leg. D. Tubiolo, Leg. C. Borgia, Leg. F. Corcoran, Leg. M. Cunzio, G. Zuckerman, G. Friedman, T. Bernard, A. Negro, M. Richter, T. Limengo, A. Restiano, D. Linhardt GUESTS: J. Gold (UBER), F. Owolabi (Lyft), J. Mahedy, M. Rego, T. Toal, J. Dume, J. Maricone, M. Ciamarra, R. Schwartzman, J. Gross, R. Ayala, M. Alfonso, P. Blier, A. Goldstein, E. Stoppelmann, E. Gallardo, J. Aldorado, R. Alvarado, J. Ramirez, G. Alvarado, D. Sanchez, B. Balareto, N. Filippi, C. Figuera, R. Figuera, G. Infante, J. Policano, F. Vergara, D. Petrucci, J. Lotaro, R. Lee, J. Perez, A. DeFiguro.

MINUTES APPROVAL

1. Monday, June 12, 2017 at 10:00 AM
2. Monday, June 19, 2017 at 1:00 PM

I. ITEMS FOR DISCUSSION

1. **(ID # 10265) Local Law – TNC Operation Restrictions:**

A proposed "LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 271 restricting the operation of Transportation Network Companies."

Minutes Acceptance: Minutes of Jun 26, 2017 1:01 PM (MINUTES APPROVAL)

Deputy County Executive Plunkett and Chief of Staff Oliva joined Budget Director Soule and County Attorney Meehan for the joint committee meeting. Mr. Plunkett gave an update on the Administration's negotiations on the new State law.

He stated that June 29, 2017 is the deadline for the County to have the opportunity to opt out of this legislation. He noted that safety is the first priority for the County Executive and they are continuing to work with Uber, Lyft and TNC Companies. He also mentioned that the County is closely working with the City of Yonkers, which, because of its size, is not included in the County's jurisdiction. At this time no final determination has been made by the Administration.

There was a discussion of whether State law pre-empts the County on regulating TNC's and legislative intent and whether, if we opt out, can Westchester then regulate the TNC's Leg. Boykin stated that the County wants rideshare but we want safe rideshare and asked that the County Attorney check with the State on our options if the County chooses to opt-out.

DCE Plunkett was asked to explain the regulations of Westchester vs. the New York State law. Mr. Plunkett explained that the NYS law allows the TNC's to self regulate in regards to background check. The County's TLC requires for hire vehicles to have the drivers fingerprinted and have background checks. Mr. Meehan stated that not all the local municipalities require for hire vehicles to have a background check.

Josh Gold from Uber and Funsho Owolabi from Lyft joined the discussion to answer some of the concerns the members of the committee had. Mr. Gold corrected some of the statements that had been made, noted that the State had set up specific regulations for the TNC's, and said that they are still willing to negotiate with the County.

Mr. Gold discussed Uber's safety procedures - background checks and fingerprinting.

Leg. Kaplowitz asked if the Uber culture at the local level follows all the local rules and regulations and noted that Uber continues to operate in Westchester even though they currently are not allowed to do so. A long discussion ensued.

Arthur Goldstein, representing the taxi cab services industry drivers joined the conversation. He discussed the views of the taxi cab drivers and the results for them of having Uber/Lyft in the County.

With a motion by Legislator Kaplowitz and seconded by Legislator Maisano, the item was approved with a vote of 7-0 with Legislators Williams, Shimsky, Boykin, Testa, Burrows, Maisano, Kaplowitz voting without prejudice.

To view this meeting, please go to:

<http://westchestercountyny.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=4640&Format=Agenda>

RESULT:	SIGNED BY COMMITTEE
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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 Burrows, the Committee adjourned at 3:10PM.

Minutes Acceptance: Minutes of Jun 26, 2017 1:01 PM (MINUTES APPROVAL)

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “An Act regarding the Policy of the County of Westchester on Immigration Enforcement.”

Your Committee is aware that too many immigrants are frightened to cooperate with law enforcement when they need assistance in their home community. In a study by the University of Illinois, 45% of Latinos stated that they are less likely to voluntarily offer information about crimes and are less likely to report a crime because they are afraid the police will ask them or people they know about their immigration status. Meanwhile 70% of undocumented immigrants report that they are less likely to contact law enforcement authorities if they are a victim of a crime. This undermines the safety of all Westchester residents.

Your Committee finds that the Department of Public Safety and Department of Corrections are required to follow all federal immigration laws. In addition, this proposed Act will ensure that people are not stereotyped or discriminated against based on their race, gender, sexual orientation, religion, ethnicity or national origin. This bill will also guarantee people being interviewed by a federal agent have an opportunity to have counsel present.

Your Committee notes that this measure does not prevent violent offenders from being detained. Individuals who have previously been convicted of a felony or where there is probable cause that an individual has committed a felony or has or is engaged in terrorist activity, are not protected by this legislation.

Your Committee is aware that Westchester County has a history of protecting the rights of its residents. We have laws prohibiting discriminatory in employment and housing. In 2001 the County enacted Act 130-2001 to prohibit racial profiling in traffic stops.

Your Committee is advised that other than section three, all sections of this proposed Act come from the model provisions laid out in a January 19, 2017 report by the New York State Attorney General. Section three, which provides the opportunity for counsel, is based on existing Washington D.C. law. This bill complies with federal law and sets forth constitutionally permissible Westchester County procedures that will help assure just and fair treatment for all county residents.

Your Committee believes that the proposed Act will ensure that everyone is treated fairly in any part of the justice system and that immigrants will be more confident in working with law enforcement. This bill includes provisions to encourage cooperation and foster positive relations between county residents and law enforcement. Nobody should ever be afraid to report crimes to police. Ultimately this will improve public safety for all of Westchester's residents.

An affirmative vote of a Majority of the voting strength of your Honorable Board is required for approval of this Act.

Finally, as you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”).

_____ the applicable SEQRA regulations and
_____ that since the proposed action does not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to SEQRA, this does not constitute an action as defined in 6 N.Y.C.R.R. §617.2(b), and as such, no further environmental review is required.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this proposed Act

Dated: 2017

White Plains, New York

Committee on

ACT NO. 2017

AN ACT regarding the policy of the County of Westchester on Immigration Enforcement.

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

Section 1. The County of Westchester shall not utilize County monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

§ 2. (a) The Department of Public Safety or The Department of Corrections may respond affirmatively to a “civil immigration detainer” from United States Immigration and Customs Enforcement (“ICE”) or Customs and Border Protection (“CBP”) to detain or transfer an individual for immigration enforcement or investigation purposes for up to 48 hours only if the request is accompanied by a judicial warrant:

(b) Notwithstanding subdivision (a) of this section, the Department of Public Safety or the Department of Corrections may detain a person for up to 48 hours on a “civil immigration detainer” in the absence of a judicial warrant only if:

1. there is probable cause to believe that the individual has illegally re-entered the country after a previous removal or return as defined by 8 United States Code (“U.S.C.”) § 1326; and

2. the individual has been convicted at any time of or there is currently probable cause to believe that the individual has committed:

- (i) a specifically enumerated set of serious crimes as defined under the New York State Penal Law (e.g., Class A felony, attempt of a Class A felony, Class B violent felony, etc.); or
- (ii) a federal crime or crime under the law of another state that would constitute a predicate felony conviction, as defined under the New York State Penal Law, for any of the preceding felonies; or

3. there is probable cause to believe that the individual has or is engaged in terrorist activity.

§ 3. (a) The County of Westchester shall not provide to any ICE agent an office, booth, or any facility or equipment for a generalized search of or inquiry about inmates or permit an ICE agent to conducted an individualized interview of an inmate without giving the inmate an opportunity to have counsel present;

(b) In advance of any interview between ICE and an individual in the custody of the Department of Public Safety or the Department of Corrections regarding civil immigration, the Department of Public Safety or the Department of Corrections shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.

§ 4. (a) The Department of Public Safety or the Department of Corrections shall not delay bail and/or release from custody upon posting of bail solely because of:

- (i) an individual's immigration or citizenship status; or
- (ii) a civil immigration detainer; or

(iii) an ICE or CBP request—for the purposes of immigration enforcement—for notification about, transfer of, detention of, or interview or interrogation of that individual.

(b) Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, the Department of Public Safety or the Department of Corrections shall provide a copy of that request to the individual named therein in the custody of either Department and inform the individual and the individuals' counsel, whether the Department of Public Safety or the Department of Corrections will comply with the request before communicating its response to the requesting agency;

(c) Individuals in the custody of the Department of Public Safety or the Department of Corrections shall be subject to the same booking, processing, release, and transfer procedures, policies, and practices of that agency, regardless of actual or suspected citizenship or immigration status.

§ 5. (a) The Department of Public Safety shall not stop, question, interrogate, investigate, or arrest an individual based solely upon any of the following:

(i) Actual or suspected immigration or citizenship status; or

(b) The Department of Public Safety shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual;

(c) The Department of Public Safety shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law—whether pursuant to Section 1357(g) of Title 8 of the U. S.C. or under any other law, regulation or policy.

§ 6. The Department of Public Safety and the Department of Corrections shall provide a written report to the County Board of any changes in policy or practice regarding interactions with ICE or CBP.

§ 7. This Act shall become effective immediately.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “An Act regarding the Policy of the County of Westchester on Immigration Enforcement.”

Your Committee is aware that immigrants are frightened to cooperate with law enforcement when they need assistance in their home community. In a study by the University of Illinois, 45% of Latinos stated that they are less likely to voluntarily offer information about crimes and are less likely to report a crime because they are afraid the police will ask them or people they know about their immigration status. Meanwhile, 70% of undocumented immigrants report that they are less likely to contact law enforcement authorities if they are a victim of a crime. This undermines the safety of all Westchester residents.

Your Committee finds that, although the Department of Public Safety and Department of Corrections are required to follow all federal immigration laws, this proposed Act will ensure that people are not stereotyped or discriminated against based on their race, gender, sexual orientation, religion, ethnicity or national origin. This bill will also guarantee people being interviewed by a federal agent have an opportunity to have counsel present or to willingly and objectively waive said right to counsel.

Your Committee notes that this measure does not prevent violent offenders from being detained. Individuals who have previously been convicted of a felony or where there is probable cause that an individual has committed a felony or has or is engaged in terrorist activity, are not protected by this legislation.

Your Committee is aware of the 4th Amendment of the United States Constitution which protects us from unlawful search and seizure and is reinforcing the prohibition of detainment or imprisonment against a persons will for a suspected civil offense.

Your Committee is aware that Westchester County has a history of protecting the rights of its residents. We have human rights laws that safeguard people from discrimination in employment, public accommodations and housing. In 2001 the County enacted Act 130-2001 to prohibit racial profiling in traffic stops. Westchester County Executive Andrew J. Spano issued Executive Order No. 4 of 2006 to provide protections and improve access for immigrants to all county programs and services. This proposed law will codify and strengthen that mandate.

Your Committee is advised that other than section three, all sections of this proposed Act come from the model provisions laid out in a January 19, 2017 report by the New York State Attorney General. Section three, which provides the opportunity for counsel, is based on existing Washington D.C. law. This bill complies with federal law and sets forth constitutionally permissible Westchester County procedures that will help assure just and fair treatment for all county residents.

Your Committee notes that it is important for the County to educate the public of this proposed Act and its adoption, so people are aware of their rights and protections offered to them. This bill will require the Human Rights Commission to widely disseminate such information in writing and on the County Website, as well as conduct educational programs to communities throughout the county.

Your Committee believes that the proposed Act will ensure that everyone is treated fairly in any part of the justice system and that immigrants will be more confident in working with law enforcement. This bill includes provisions to encourage cooperation and foster positive relations between county residents and law enforcement. Nobody should ever be afraid to report crimes to police. Ultimately this will improve public safety for all of Westchester’s residents.

An affirmative vote of a Majority of the voting strength of your Honorable Board is required for approval of this Act.

Finally, as you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”).

_____ the applicable SEQRA regulations and
 _____ that since the proposed action does not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to SEQRA, this does not constitute an action as defined in 6 N.Y.C.R.R. §617.2(b), and as such, no further environmental review is required.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this proposed Act

Dated: 2017
White Plains, New York

Committee on

ACT NO. 2017

AN ACT regarding the policy
of the County of Westchester on
Immigration Enforcement.

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

Section 1. The County of Westchester shall not utilize County monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

§ 2. (i) No County officer or employee may respond affirmatively to a United States Immigration and Customs Enforcement (“ICE”) or Customs and Border Protection (“CBP”) request for non-public information about an individual-including but not limited to non-public information about an individual’s release from the custody of the Department of Public Safety or the Department of Corrections, home address, or work address, unless the request is accompanied by a judicial warrant, or:

- a. Such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual’s parent or legal guardian; or
- b. Such disclosure is required by Federal, State or County law; or
- c. Such disclosure is to another County officer or employee and is necessary to fulfill the purpose or achieve the mission of any County agency; or

d. the individual to whom such information pertains is suspected by such officer or employee or such officer's or employee's agency of engaging in illegal activity, other than their mere status as an undocumented immigrant; or

e. the dissemination of such information is necessary to apprehend a person suspected of engaging in illegal activity, other than their mere status as an undocumented immigrant, or

f. disclosing information about an individual's criminal arrests or convictions, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order; or

g. disclosing information about an individual's juvenile arrests or delinquency or youthful offender adjudications, where disclosure of such information about the individual is otherwise permitted by state pursuant to subpoena or court order.

(ii) except that nothing in this Act prohibits any local agency from:

a. sending to or receiving from any local, state, or federal agency-as per 8 United States Code ("U.S.C.") §1373-information, regarding an individual's country or citizenship or a statement of the individual's immigration status; or

§ 3. A County officer or employee shall not inquire about a person's immigration status unless:

a. Such person's immigration status is necessary for the determination of program, service or benefit eligibility or the provision of County services; or

b. Such officer or employee is required by law to inquire about such person's immigration status.

§ 4. Any service provided by any County agency shall be made available to all persons notwithstanding their immigration status who are otherwise eligible for such services.

§ 5. a. The Department of Public Safety or the Department of Corrections may respond affirmatively to a “civil immigration detainer” from ICE or CBP to detain or transfer an individual for immigration enforcement or investigation purposes for up to 48 hours only if the request is accompanied by a judicial warrant:

b. Notwithstanding subdivision (a) of this section, the Department of Public Safety or the Department of Corrections may detain a person for up to 48 hours on a “civil immigration detainer” in the absence of a judicial warrant only if:

1. there is probable cause to believe that the individual has illegally re-entered the country after a previous removal or return as defined by 8 U.S.C. §1326; and
2. the individual has been convicted at any time of or there is currently probable cause to believe that the individual has committed:
 - (i) a specifically enumerated set of serious crimes as defined under the New York State Penal Law (e.g., Class A felony, attempt of a Class A felony, Class B violent felony, etc.); or
 - (ii) a federal crime or crime under the law of another state that would constitute a predicate felony conviction, as defined under the New York State Penal Law, for any of the preceding felonies; or
3. there is probable cause to believe that the individual has or is engaged in terrorist activity.

§ 6. a. The County of Westchester shall not provide to any ICE agent an office, booth, or any facility or equipment for a generalized search of or inquiry about inmates or permit an ICE agent access to or conduct an individualized interview of an inmate without giving the inmate an opportunity to have counsel present;

b. In advance of any interview between ICE and an individual in the custody of the Department of Public Safety or the Department of Corrections regarding civil immigration, the Department of Public Safety or the Department of Corrections shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese and Korean.

§ 7. a. The Department of Public Safety or the Department of Corrections shall not delay bail and/or release from custody upon posting of bail solely because of:

- (i) an individual's immigration or citizenship status; or
- (ii) a civil immigration detainer; or
- (iii) an ICE or CBP request—for the purposes of immigration enforcement—for notification about, transfer of, detention of, or interview or interrogation of that individual.

b. Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, the Department of Public Safety or the Department of Corrections shall provide a copy of that request to the individual named therein in the custody of either Department and inform the individual and the individuals' counsel, whether the Department of Public Safety or the Department of Corrections will comply with the request before communicating its response to the requesting agency. If either department decides that it will comply with the request, the inmate shall be given the opportunity, no

less than 48 hours, to confer with and or require the presence and representation of legal counsel;

c. Individuals in the custody of the Department of Public Safety or the Department of Corrections shall be subject to the same booking, processing, release, and transfer procedures, policies, and practices of that agency, regardless of actual or suspected citizenship or immigration status.

§ 8. The Department of Public Safety and the Department of Corrections:

a. shall not inquire about a person’s immigration status unless investigating illegal activity other than mere status as an undocumented alien.

b. The Department of Public Safety shall not stop, question, interrogate, investigate, or arrest an individual based solely upon any of the following:

- (i) Actual or suspected immigration or citizenship status; or
- (ii) A “civil immigration warrant,” administrative warrant, or an immigration detainer in the individual’s name, including those identified in the National Crime Information Center (NCIC) database.

c. The Department of Public Safety shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual, based on probable cause;

d. The Department of Public Safety shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law—whether pursuant to Section 1357(g) of Title 8 of the U.S.C. or under any other law, regulation or policy.

§ 9. The Department of Public Safety and the Department of Corrections shall provide a written report to the County Board of any changes in policy or practice regarding interactions with ICE or CBP. The Department of Public Safety and Department of Corrections shall also provide the County Board with a written report on July 1 and December 1 of each calendar year, which contains an accounting of those instances when it granted consent to ICE to interview an inmate regarding their immigration status which shall include inmate number, proof of informed decision to have counsel or waive of right, and section of law under which inmate is being held.

§10. The Human Rights Commission shall be responsible for disseminating information to the public regarding the County policy on immigration enforcement by posting provisions of this Act on the Commission website and by holding educational programs throughout the County to make residents aware of their rights under this Act. All public information regarding this Act shall be made available in English, Spanish, Italian and Portuguese.

§ 11. This Act shall become effective immediately.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “An Act instituting the policy of the County of Westchester regarding the collection of confidential information on immigration status.”

Your Committee is aware that many immigrants are frightened to cooperate with law enforcement when they need assistance in their home community. In a study by the University of Illinois, 45% of Latinos stated that they are less likely to voluntarily offer information about crimes and are less likely to report a crime because they are afraid the police will ask them or people they know about their immigration status. Meanwhile, 70% of undocumented immigrants report that they are less likely to contact law enforcement authorities if they are a victim of a crime. This undermines the safety of all Westchester residents.

Your Committee finds that although all County departments and agencies and particularly the County Departments of Public Safety, Corrections and Probation are required to follow all federal immigration laws, this proposed Act will ensure that people are not stereotyped or discriminated against based on their race, gender, sexual orientation, religion, ethnicity or national origin. This proposed Act will also guarantee that people being interviewed by a federal agent will have an opportunity to have counsel present or to willingly and objectively waive said right to counsel.

Your Committee is aware that the 4th Amendment to the United States Constitution protects us from unlawful search and seizure and reinforces the provision contained in this proposed Act which prohibits detainment or imprisonment against persons will for a suspected civil offense in the absence of a judicial warrant.

Your Committee is aware that Westchester County has a history of protecting the rights of its residents. We have human rights laws that safeguard people from discrimination in employment, public accommodations and housing. In 2001, the County enacted Act 130-2001 to prohibit racial profiling in traffic stops. Former Westchester County Executive Andrew J. Spano issued Executive Order No. 4 of 2006 to provide protections and improve access for immigrants to all county programs and services. This proposed Act will strengthen that mandate.

Your Committee is advised that this proposed Act will prohibit the sharing of confidential or non-publicly available personal information with federal immigration authorities without a judicial warrant, state or federal law requirements, court order, or an individual's written consent. Notwithstanding, in compliance with federal law (8 USC§ 1373), nothing in this proposed Act prohibits the County from sending or receiving information from any local agency, state or federal agency regarding an individual's citizenship or immigration status. This proposed Act sets forth constitutionally permissible Westchester County procedures that will help assure just and fair treatment for all county residents.

Your Committee notes that it is important for the County to educate the public of this proposed Act and its adoption, to ensure that people are aware of the rights and protections offered to them. This proposed Act will require the County Human Rights Commission to widely disseminate such information in writing and on the County Website, as well as conduct educational programs for communities throughout the county.

Your Committee believes that the proposed Act will ensure that all county residents are treated fairly in any part of the justice system and that immigrants will be more confident in working with law enforcement. This proposed Act includes provisions to encourage cooperation and foster positive relations between county residents and law enforcement. No person should ever be afraid to report crimes to the police. Ultimately this Act will improve public safety for all of Westchester's residents.

An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Act.

Finally, as you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA").

_____ the applicable SEQRA regulations and
 _____ that since the proposed action does not "change the use, appearance or condition of any natural resource or structure," or otherwise affect the environment, with respect to SEQRA, this does not constitute an action as defined in 6 N.Y.C.R.R. §617.2(b), and as such, no further environmental review is required.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this proposed Act.

Dated: 2017
White Plains, New York

Committee on

Attachment: ACT-Immigration Protection Act-DRAFT #3 (9928 : Proposed Act - Immigrant Protection Act)

ACT NO. 2017

AN ACT instituting the policy of the County of Westchester regarding the Collection of Confidential Information on Immigration Status.

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

Section 1. Definitions

a. "Citizenship or immigration status": an individual's citizenship of the United States or any other country and an individual's statutory or regulatory right to reside in or otherwise be present in the United States as determined under the federal Immigration and Nationality Act (INA).

b. "Civil Immigration Detainer/Hold Request": a request issued pursuant to 8 CFR § 287.7, or any similar request by a federal immigration authority asking a County Law Enforcement Agency (CLEA) or other County agency to maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to federal immigration authorities, its form and content including but not limited to United States Department of Homeland Security (DHS) Form I-247D.

c. "Confidential Information": any information obtained and maintained by a County agency relating to an individual's sexual orientation, status as a victim of domestic violence or sexual assault status as a victim of a crime, status as a crime witness a receipt of public assistance, and shall include all non-public information contained in any individual's income tax records.

d. "County Law Enforcement Agencies": (CLEAs), include, among others, agents and entities of the County Departments of Public Safety, Corrections, and Probation.

e. "Federal Immigration Authorities": any individual employed by or acting as an agent of the (DHS) – including United States Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or any division thereof or any other officer - who is charged with enforcement of the civil provisions of the INA.

f. "Inquire": To request information from an individual or act in such a way as to elicit information from another individual.

g. "Investigate": To search for and/or examine the particulars of a situation, event, or individual, in an attempt to learn additional facts about something unknown, uncertain, or requiring additional information or evidence to prove.

h. "Judicial Warrant": a warrant based on probable cause and issued by a federal judge as established in Article III of the United States Constitution or a federal magistrate judge, that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant. This does not include an administrative warrant.

i. "Non-public information": information not readily accessible by search within the public domain and/or which requires access to government, personal, or other records not generally open for public review.

j. “Notification request”: a request from a federal immigration authority to a local law enforcement agency asking to be informed of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N.

k. “Registration”: mandatory recording or inserting information regarding a person’s race, gender, sexual orientation, religion, ethnicity, or national origin in an official book of public records or register.

l. “Transfer Request”: a request from a federal immigration authority to a local law enforcement agency asking that the local law enforcement agency facilitate the transfer of an individual in its custody to the federal immigration authority and includes, but is not limited to, DHS Form I-247X.

§ 2. The County of Westchester shall not utilize County monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any local, state, or federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

§ 3. Any service provided by any CLEA or other county agency shall be made available to all eligible individuals.

§ 4. CLEAs and other County agencies and employees shall not request or require that an individual provide information regarding his or her citizenship or immigration status or country of birth where such disclosure is not necessary to establish eligibility for the service undertaken or benefit sought.

a. When providing or assessing eligibility for services or benefits, CLEAs and other County agencies and employees shall not inquire about or request proof of citizenship or immigration status, except when the receipt of such services or benefits is contingent upon one’s citizenship or immigration status or when inquiries are otherwise lawfully required by federal, state, or local statute, regulation, or jurisprudence, at which time any inquiries regarding citizenship or immigration status should be limited to the information necessary to evaluate eligibility or comply with relevant law.

(1) Section 4(a) shall not prohibit CLEAs or other County agencies or employees from requesting proof of citizenship or immigration status after obtaining voluntary and informed consent from an individual.

b. CLEAs and other County agencies and employees shall not inquire about or investigate the citizenship or immigration status or the country of birth of an individual, including but not limited to actions and inquiries based on civil and criminal immigration enforcement, unless lawfully required by state statute, federal law or regulation, court order or binding jurisprudence, or is otherwise necessary as determined in Section 4(a).

§ 5. CLEAs and other County agencies and employees shall not threaten to contact federal immigration authorities to report or question any individual’s citizenship or immigration status.

§ 6. CLEAs and other County agencies and employees shall not use agency moneys, equipment, or personnel for detecting or apprehending individuals because of their actual or suspected citizenship or immigration status.

§ 7. No CLEA shall stop, question, interrogate, investigate, or arrest an individual based solely upon any of the following:

- a. actual or suspected citizenship or immigration status; or
- b. actual or suspected country of origin; or
- c. existence of an administrative warrant, or Civil Immigration Detainer/Hold Request in the individual's name, including those identified in the National Crime Information Center (NCIC) database; or
- d. any combination of only the factors enumerated in sections 7 a through c.

§ 8. a. CLEAs and other County agencies and employees shall not respond affirmatively to requests for Confidential or Non-public information about an individual – including, but not limited to, information about the individual's home address, email address, social media account, release or release date, or work address – made without a Judicial Warrant by or any Federal Immigration Authorities.

b. CLEAs shall not make county or local agency or department databases available to Federal Immigration Authorities absent a Judicial Warrant, except as required by state statute, federal law or regulation, court order, or binding jurisprudence.

c. Notwithstanding the restrictions outlined in subsection a, where there is not a Judicial Warrant, a CLEA or other County agency or employee may disclose confidential and non-public information to a person, agency, or entity that is not a CLEA or other County agency where:

- (1) such disclosure has been voluntarily and intelligently authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal guardian; or
- (2) state statute, federal law or regulation, court order, or binding jurisprudence require such disclosure.

d. Nothing in this Act prohibits any local agency employee from sending or receiving from any local, state, or federal agency – as per 8 USC § 1373 – information regarding an individual's citizenship or immigration status.

§ 9. CLEAs and other County agencies and employees shall not provide to DHS or any federal immigration authority or officer, absent a judicial warrant, access to any county facility or equipment for a search of or inquiry about inmates.

§ 10. a. When federal immigration authorities are investigating civil immigration matters, CLEAs shall not permit a federal immigration agent to inquire of or have contact with an inmate without a judicial warrant.

b. When federal immigration authorities are investigating criminal matters, CLEAs shall not permit a federal immigration agent to inquire of or have contact with an inmate without giving the inmate an opportunity to have counsel present.

(1) in advance of any interview between ICE and an individual in the custody of the county CLEAs shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Italian, Portuguese, French, Haitian Creole and any other language spoken by 5 percent of the county population or 10,000 residents.

(2) within 90 days of the passage of this bill, CLEA's shall develop a process to ensure that after a request by ICE for contact with an individual in the custody of the county, the individual is informed that the communication with ICE is voluntary, that they have the right to have an attorney present and that they have at least 72 hours to search for an attorney after receiving notice of the request. The process shall be submitted to the Board of Legislators when completed.

§ 11. a. CLEAs and other County agencies and employees shall not delay bail and/or release from custody upon posting of bail solely because of:

- (1) an individual's immigration or citizenship status or country of birth; or
- (2) a Civil Immigration Detainer/Hold Request; or
- (3) a request from Federal Immigration Authorities for notification about, transfer of detention of, or interview or interrogation of an individual.

b. CLEAs and other County agencies and employees shall not respond affirmatively to a Civil Immigration Detainer/Hold Request from Federal Immigration Authorities to detain or transfer an individual for immigration enforcement or investigations for purposes for up to 48 hours unless accompanied by a duly executed judicial warrant.

c. All CLEA and other County agencies and employees shall utilize the same booking, processing, release, and transfer procedures, policies, and practices of that agency for detained individuals, regardless of actual or suspected citizenship or immigration status or country of birth.

§ 12. a. Upon receipt of a hold, transfer, notification, or interrogation request for an individual in the custody of any CLEA or other County agency, from Federal Immigration

Authorities, all CLEA and other County agencies and employees shall provide a copy of that request to the individual named therein.

(1) The copy shall be made available in English, Spanish, Portuguese, Italian, French, Haitian Creole and any other language spoken by 5 percent of the county population or 10,000 residents. Upon request, it shall also be translated into any language reasonably necessary for the individual in custody's full understanding of its contents.

b. Notwithstanding prohibitions established in Section 8, if a CLEA agent or employee provides Federal Immigration Authorities with notification that a detained individual is being, or will be, released from custody on a certain date, access to directly contact or communicate in-person or via telephone with a detained individual, or with information on an individual's citizenship or immigration status, shall promptly provide the same notification in writing to the individual and to his or her counsel.

(1) The notification shall be made available in English, Spanish, Portuguese, Italian, French, Haitian Creole and any other language spoken by 5 percent of the county population or 10,000 residents. Upon request, it shall also be translated into any language reasonably necessary for the detained individual to understand its contents.

§ 13. a. CLEAs and other County agencies and employees shall not perform the functions of a federal immigration authority or officer or otherwise engage in the enforcement of federal immigration law— whether pursuant to 8 U.S.C. Section 1357(g) or under any other law, regulation or policy.

b. CLEAs and other County agencies and employees shall not accept requests by Federal Immigration Authorities to assist in immigration enforcement operations, including but not limited to requests to establish traffic perimeters related to immigration enforcement.

§ 14. CLEAs and other County agencies and employees shall not use county facilities, funds, personnel, or other resources for the detention of individuals detained by Federal Immigration Authorities.

§ 15. a. All CLEAs shall record, solely to create the reports described in subsection (b) the following for each immigration detainer, notification, transfer, interview, or interrogation request received from Federal Immigration Authorities:

- (1) Date and time that the named individual was taken into CLEA custody, the location where the individual was taken into CLEA custody, the location where the individual was held, and the arrest charges;
- (2) Date and time of the CLEA's receipt of the request;
- (3) The requesting agency;
- (4) Alleged immigration or criminal history and alleged country of citizenship indicated on the request form, if any;

- (5) Whether the request was accompanied by any documentation regarding citizenship or immigration status or proceedings, e.g., a judicial warrant;
- (6) Whether a copy of the request was provided to the named individual and, if yes, the date and time of notification;
- (7) Whether the named individual was informed of his right to obtain counsel;
- (8) Whether the named individual consented to the request;
- (9) Whether the named individual requested to confer with counsel regarding the request;
- (10) The CLEA's response to the request and reasons why, including for a decision not to fulfill the request;
- (11) If applicable, the date and time that DHS or other federal immigration authority or officer took custody of, or was otherwise given access to, the named individual; and
- (12) The date and time of the named individual's release from the CLEA's custody.

b. All CLEAs shall provide semi-annual reports to the County Board and County Human Rights Commission, for dissemination to the public under the guidelines established in § 16 regarding the information collected in subsection a. above in an aggregated form without any personal identifiers, to ensure compliance with this Act.

§ 16. All CLEAs shall provide a written report to the County Board of any changes in policy or practice regarding interactions with Federal Immigration Authorities. Such report shall be made available to the public on the Department of Public Safety, Department of Corrections, and County Board websites, translated into English, Spanish, Italian, Portuguese, French, Haitian Creole and any other language spoken by 5 percent of the county population or 10,000 residents, within 30 days of its submission to the County Board.

§ 17. The County Human Rights Commission shall be responsible for disseminating information to the public regarding the County policy on immigration enforcement by posting provisions of this Act on the Commission website and by holding educational programs throughout the County to make residents aware of their rights under this Act. All public information regarding this Act shall be made available in English, Spanish, Italian, Portuguese, French, Haitian Creole and any other language spoken by 5 percent of the County population or 10,000 residents.

§ 18. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 19. This Act shall become effective immediately.