



**BOARD OF ESTIMATE & CONTRACT
MEETING MINUTES
TUESDAY, APRIL 18, 2023**

4:00 P.M.

**MAYOR'S CONFERENCE ROOM – 1ST FLOOR
CITY HALL, MOUNT VERNON, NEW YORK
&
VIA FACEBOOK.COM/MOUNTVERNONNY**

“REVISED”

Call to Order: At 4:13 PM by Chairwoman Mayor Shawyn Patterson-Howard

Roll Call: Roll Call and reading of agenda items administered by City Clerk Tanesia M. Walters.

Board Members Present: Comptroller Darren Morton, City Council President Danielle Browne and Chairwoman, Mayor Shawyn Patterson-Howard (we have a quorum).

Absent: None

Others: City Clerk Tanesia Walters, Deputy City Clerk Donna Jackson, Assistant Comptroller Condell Hamilton, Assistant Corporation Counsel Alyssa Gillespie, Khush Kam-Au, Legislative Aide, Commissioner James Rausse, Planning, and Ric Wright, Recreation.

ADMINISTRATION OF THE AGENDA

RESOLUTIONS APPROVING ORDINANCES

1. Granting permission to the Department of Public Works to co-sponsor Earth Day with Comrie Enterprises (Saturday, April 22, 2023, from 11:00 a.m. to 2:00 p.m. on City Hall Plaza. In case of inclement weather (rain), the event will be moved to the Rotunda. (Funds not to exceed \$3,000.00 and are to be accounted for in budget code A7111.447)).

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: None

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

2. Granting permission to convert the position of Laborer to Cleaner (Court Facility) within the Department of Public Works (transfer \$59,941.73 from Budget Code 8170.101 to Budget Code 1620.101).

FROM:

<u>Budget Code</u>	<u>Title</u>	<u>Salary</u>
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8170.101	Laborer	\$59,941.73
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TO:

<u>Budget Code</u>	<u>Title</u>	<u>Salary</u>
1620.101	Cleaner	\$59,941.73

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: None

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

- Granting permission to declare an emergency situation at S. Fulton Avenue & E. 3rd Street Bridges (Overpass) - C&D Debris Removal – (the associated cost(s) for these emergency services is \$166,000.00 and funding for this project is available within the FY2023 A8160.424 - DPW Dumping Costs. Capital Industries Corp. has been identified as the most responsible contractor to complete this work).

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Mayor noted these are the overpasses that citizens didn't realize are bridges. There have been years of dumping that needs to be remedied so the city can move forward with remediation.

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

- Granting amending Ordinance No. 4 adopted on December 16, 2022, entitled "AN ORDINANCE AUTHORIZING AND DIRECTING THE COMPTROLLER TO MAKE PAYMENT IN FULL TO GRANICUS CORPORATION." (Year 1: [27,625.00] \$27,650.00. Total Amount to be Paid [\$105,189.00] \$105,214.00), as shown in the Chart below:

Year 1	[27,625.00] <u>\$27,650.00</u>
Year 2	\$38,782.00
Year 3	\$38,782.00
TOTAL AMOUNT TO BE PAID	[105,189.00] <u>\$105,214.00</u>

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: None

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

- Granting permission to set the prices for field usage at the stadium at Memorial Field for sports practices *only*. Prices for Peak and Off-Peak Hours are set forth below:

- Full field - \$550.00/hr.: 8:00 a.m. – 4:00 p.m.
- Full field - \$650.00/hr.: 4:00 p.m. – 9:00 p.m.
- Half (½) Field - *F1 / *F2 - \$300.00/hr.: 8:00 a.m. – 4:00 p.m.
- Half (½) Field - *F1 / *F2: - \$350.00/hr.: 4:00 0.m. – 9:00 p.m.
- Running track- *S1 / *S2: - \$150.00/hr.: 8:00 a.m. – 4:00 p.m.
- Running track - *S1 / *S2 - \$250.00/hr.: 4:00 0.m. – 9:00 p.m.
- Locker Rooms - *L1 / *L2: - \$50.00/hr.: per locker room
- Press Box – (No Scoreboard, No Sound) - \$100.00/hr. per room

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Comptroller Morton asked the Department to provide backup and a response regarding how they arrived at these prices. The Recreation Department should continue to keep an accounting of usage. We will not get into a rhythm of what pricing should be until year two or year three after adjustments. This will require metrics.

Response: Mayor noted that citizens should understand not everything will be free associated with Memorial Field. The City must maintain it. For us to keep it cleaned and maintained there is a cost.

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

6. Amending Ordinance No. 14 adopted on March 22, 2023, entitled “AN ORDINANCE REQUESTING PERMISSION FOR THE MAYOR TO ENTER INTO A SERVICE AGREEMENT WITH WESTCHESTER COUNTY EXECUTIVE, GEORGE LATIMER, BOARD OF LEGISLATORS AND THE WESTCHESTER COUNTY YOUTH BUREAU” ([\$25,666.00] as of March 20, 2023, the newly awarded amount was increased to \$27,426.00.)

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: None

Response: none

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

7. Granting permission for the Mayor to enter into an Agreement with Computer Adventures for the Mount Vernon Bureau’s Strong Program (\$5,000.00 for the Mount Vernon Youth Bureau’s Mount Vernon STRONG Program (Students Taking Responsibility and Ownership Now and Graduating) – OCFS extension, for the contract period April 13, 2023 to June 15, 2023 to provide twenty (20) weekly workshops). Funds in an amount not to exceed \$5,000.00 are to be accounted for in Budget Code A7316.405 OCFS (contracted expenses).

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: None

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

8. Granting permission for the Mayor to enter into an Agreement with NYS Office of Children and Family Services through the office of Assemblyman J. Gary Pretlow (\$80,000.00 for the contract period of October 1, 2022 through September 31, 2023, contract number CO29560. Funds for these programs are to be accounted for in revenue code A2229.8 and expense code A7319.101 (Salaries and Fringes). The Youth Bureau will then transfer \$25,000.00 to the Recreation Department, Revenue Code A2001.5 to expense in A7310.104 and 458 for Boxing programs. **There is no matching obligation for this grant.**)

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Morton inquired why we are putting this forward in this way instead of accepting the funds and allocating directly. It is fine, as long as it is here, we have the authorization to transfer.

Response: Mayor noted this is for the rebuilding of the boxing program, and an overhaul of the space. This helps young people create discipline and confidence. She thanked Assemblyman Pretlow. Comptroller Morton engaged in further discussion on how to allocate.

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

9. Amending Ordinance No. 15 adopted on July 13, 2022, entitled “AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A SERVICE AGREEMENT WITH WESTCHESTER COUNTY EXECUTIVE, GEORGE LATIMER, BOARD OF LEGISLATORS AND THE WESTCHESTER COUNTY YOUTH BUREAU AND ACCEPT FUNDS IN THE AMOUNT OF \$71,428.00.”

Moved: Comptroller Morton

Seconded by Council President Browne

On the Question: None

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

10. Granting permission for six (6) Members of Service from the Fire Department to attend fire training (NY State Fire Academy Training Center from April 3 through April 6, 2023. Fees not to exceed an amount of \$1,200.00 – (approximately \$176.00 per firefighter) are available in Budget Code A3410.451, Training Budget).

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: none

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

11. Granting permission for four (4) Members of Service to attend the ICISF Assisting Individuals in Crisis Peer Development Training (VFW Memorial Building, located at 413 Main Street, Beacon, NY 12508 from April 17 – April 18, 2023). **There is no cost for this course.**

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Morton asked why we are approving this?

Response: Clerk Walters noted there is a cost for mileage, city vehicle use, and travel expenses.

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

12. Granting permission for the Comptroller to refund an overpayment of taxes to “Gitsit Solutions LLC.” - (Account Code A690 – refund in the amount of \$117,366.11 for overpayment of property taxes on Block 3127, Lot 29).

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Comptroller Morton asked for clarification – this is a cleanup item from prior to his current position where the City received payment for taxes from a company, but it was reported to them that the payment had not been received and recorded. It was paid again, and then later the double payment was noticed.

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

13. Granting permission for the Mayor, two (2) members of the Department of Planning and Community Development and one (1) member from the Department of Public Works to attend the National League of Cities (“NLC”) Mayors’ Institute from May 16 – 18, 2023. (The expenditure for the four (4) City members will not exceed \$7,200.00. The cost for three of the four participants will be reimbursed by NLC. The travel and lodging costs for the three department staff members will not exceed \$5,400.00. This trip requires the expenditure of \$3,600.00 City funds from the Planning and Community Development Department’s Contracted Outside Services expenditure code A8020.423 for the two members. Expenditure of \$1,800.00 City funds from the Department of Public Works Job Training Program budget code A8170.405 for one member. Each department will receive reimbursement from NLC corresponding to the amount spent by each department to code A8020.423 and A8170.405, respectively. Expenses for the fourth participant’s travel and lodging will not exceed \$1,800.00, to be covered by the Mayor’s Office Travel Budget Code A1210.402, this amount will not be reimbursed by the NLC.).

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Comptroller Morton asked when the registration is due.

Response: Mayor noted the Mayor’s Institute application, 6 communities across USA have been accepted requiring us to travel out to Houston in May, cost for 3 participants will be reimbursed, but Mayor has to attend. Commissioner Rausse, Lauren Pluth and Curtis Woods from DPW will attend. The Program we are looking at doing in cohort with Comprehensive Plan is “complete streets”. Mayor’s travel will not be reimbursed. Comptroller Morton confirmed changes of code are because of the amended letter. Mayor noted that the City’s payment of National League of Cities membership is paying off.

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

SETTLEMENT(S)

Settling the claim of:

<u>Item No.</u>	<u>Claimant’s Name</u>	<u>Budget Code</u>	<u>Amount</u>
14.	CHARLENE HUMPHREYS	A1910.469 Insurance – Claims, 2023 Budget	\$488.52
		Moved: Council President Browne Seconded by Comptroller Morton On the Question: none Response: None Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard. Nays: None.	
15.	CLIVE CLARKE	A1930.494 (Judgments & Settlements), 2023 Budget	\$10,000.00
		Moved: Council President Browne Seconded by Comptroller Morton On the Question: none Response: None Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard. Nays: None.	

Moved: Council President Browne moved to take items 16-19 as a block vote. Seconded by Comptroller Morton. Roll call on the vote to combine. **ALL AYES.**

TAX REVIEW SETTLEMENTS

Settling tax review proceedings for:

<u>Item No.</u>	<u>Company</u>	<u>Address</u>	<u>Amount</u>
16.	19 SOUTH 13 TH AVENUE	19 South 13 th Avenue	\$32,306.04
17.	134 NORTH MACQUESTEN PARKWAY	134 North Macquesten Parkway	\$9,436.87
18.	VERIZON NEW YORK	40 South Fifth Avenue	\$6,846.09
19.	CEDAR MANOR	485 Gramatan Avenue	\$6,054.30

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: None

Response: None

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

Moved: Council President Browne moved to take items 20-22 as a block vote. Seconded by Comptroller Morton. Roll call on the vote to combine. **ALL AYES.**

SALARY RESOLUTION AMENDMENTS

20. Position: Secretary Zoning, ARB, and Planning

<u>Grade</u>	<u>Minimum Salary</u>	<u>Maximum Salary</u>	<u>Annual Increment</u>
7A	\$45,547.45	\$65,650.12	\$2,233.63

21. Position: Secretary Zoning, ARB, and Planning

From:	To:
\$0	\$58,948.00

22. Position: Secretary Zoning, ARB, and Planning

From:	To:
\$58,948.00	\$0

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Comptroller Morton asking for clarification a position in the budget is listed as an appointee position, which ended up on the salary resolution as a appointed position, but it is a competitive position under CSEA. Under CSEA we need to set Min/Max on the salary and we have to defund the appointee resolution and enter it into the CSEA. There is no change in the budget or salary or position, it just puts it in its position as competitive. This is one of many positions that we are awaiting a public hearing with Civil Service.

Response: Council President Browne noted clerical error: secretary for zoning needs to be amended from the floor to reflect "ARB" and not "ZRB".

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

23. Position: GIS Administrator, Department of Planning and Community Development

From:	To:
\$76,631.00 Typo – should reflect 70,631	\$82,231.35

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Comptroller Morton noted – this is a position already approved in the budget. This is a change of the salary. There are no additional monies. The position has been vacant for the first three months of 2023.

Response: Candidate would be housed in planning but will work with five departments (Planning, DPW, Building, Assessor and Fire depts). Mayor discussed the necessity of the position for the city.

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

RETAINER(S)
Retaining the Firm of:

24. **ZARIN & STEINMETZ** (*engagement as Special Counsel for the City’s Land Use Matters*) - Budget Code A1420.405, Outside Contracted Services.

Moved: Council President Browne

Seconded by Comptroller Morton

On the Question: Comptroller Morton asked about setting the rates and asked for the contract.

Response: Council President Bowne noted there are rates for when the Council needs to use the counsel. There are different discounted rates for the city. Traditionally, special counsel comes through the law department. Clerk Walters asked about Escrow noted in the referral letter. Comptroller noted the only thing missing is an engagement letter, and in the resolution, the Mayor has to enter into the agreement. Council President Browne noted due to issues with the former Comptroller, the former council had to enter into direct agreement with Zarin. Comptroller Morton noted auditors will look for the authorization of the contract.

Ayes: Comptroller Morton, Council President Browne and Chairwoman, Mayor Patterson-Howard.

Nays: None.

The agenda was concluded at 4:59 PM

Chairwoman Patterson-Howard asked if there was new business: Chair Patterson-Howard shared that today Tamani Turner was buried. He was slain on April 6th. Mayor sends condolences to all who knew him. Chair Patterson Howard asked to take a moment of silence and prayers for the family. We will be working with residents, local and state agencies to deal with the drivers of violence. There are often warning signs. We want to deal with those issues from a prevention perspective.

Mayor discussed Kela Tennis judgment. As we know, we received a claim. There was a filing of a lawsuit that on June 1, 2018 former mayor Richard Thomas and several individuals and members of MVPD took down the tennis bubble where Kela operated the tennis courts based on a licensing agreement Kela had with the city. They sued for damages and for their anticipated revenue over the life of their contract. That was filed in 2018/2019. It came to trial in 2023. There has been a lot of discovery. It went to a jury trial. A jury decided in 2 phases. The City’s position was that there should not have been a contract because city had IMA with Westchester County, however the jury found the City breached contract. The intelligent jury (Morton subpoenaed because he was former recreation commissioner) also weighed in on damages. And found the City liable for all that Kela was asking for, with interest, which comes to \$15 million dollars, which the city is now responsible for. The City will have to pay it, from city funds, which means each taxpayer, because our insurance company considers this a breach of contract, is not covered by insurance, and also considered negligence based upon the fact that former Mayor Thomas actually took the actions for this.

Normally when the city gets a decision from a court, the city pays the deductible, the threshold amount and the rest is covered by insurance. Without insurance, the city must pay entire amount. There was discussion around why didn't settle, etc., and how this could have been settled in 2019. The city responded to it at the time when then-mayor Thomas was in charge, and some of the defenses the city would have utilized we could not utilize because they weren't included in the original response.

Counsel Johnson noted it is inconceivable that then-comptroller Reynolds would have been able to give an intelligible amount to settle because we had no audits, etc. there were allegations that former mayor Wallace would have settled, but that is probably not a reality because there were no financial standings to offer a settlement.

The trial happens, we get our first ask for settlement during the week of Easter. Comptroller Morton reported in 4th quarter of 2022 that we had \$9.8 million dollars that we had as cash on hand as ending balance revenues over expenses. But also reported that there was \$54 million dollars of outstanding debts there was still stuff coming in on revenue side. The revenue would come from taxes levied in January, a very good rate of 90+%, along with other revenue like sales tax. But in terms of available cash, we must pay outstanding debts, our health benefits, we had \$6.5 million for health for 4th quarter of 2022, and that brings that number down to \$36 million. We have payroll, 3 payrolls in Jan, approx. \$2.9 million each payroll, approx. \$8.7 million, subtract that from the \$36 million, which brings us down to approx. \$28 million. Then \$13 million was paid to retirement bill, and that brings us down to \$15 million. Now we have February, 2 payrolls, that brings us down a little less than \$10 million. Even if we add sale tax income maybe that brings us to \$14 million. Add all the other debits... the City is a cash-based operation right now until we can yield the rest of the monies. Taxes owed are what the City is relying on.

Given all of that, the attorney for Kela said we didn't operate in good faith offering the \$1.2 million knowing the expenses of the City and what was on hand. Interesting that was done by an attorney, and erroneous, and disingenuous. Given all of that, the City did make a good faith offer. To do anything other than what we offered would have been disingenuous for the City's stance.

While corporation counsel is responsible for settling, in court cases the comptroller is in the driver's seat. He did not take the case or the filing lightly or the potential of what this meant for the City. We had a responsibility to do our best. Where we are now – we will look to appeal the decisions while also being open to any additional discussions with Kela and the attorneys. That is where we are. This should never have happened, but we cannot say this administration, whether the executive or the financial administration that we didn't take this seriously. There are so many factors around this that are unknown to the general public. As comptroller we did what we could with what we had.

Mayor noted it would be nice if we were dealing with this in isolation but we have PBA without a contract, we have CSEA all of our clerical, we have the teamsters (DPW/laborer and water) and we've sat down to discuss with them in good faith. It's almost \$28 million dollars in back pay. While we might be sympathetic to the owner of Kela, we still need to run the city. We run on a cash basis. We are doing the best we can to deliver the services to the city that the taxpayers expect. Some of these lawsuits were caused by senseless actions and "politricks". Mayor expressed gratefulness for her committed team to ensure the city moves every day.

Comptroller Morton noted it is important for the residents to know. While we are professional, there are times that he, the council, and mayor are at odds. We deliberated. No matter which way we wanted to squeeze it there was no way to squeeze more from the jar. We didn't have enough to offer anything more than what we offered. Comptroller Morton has discussed with NY State's finance restructuring board. Bankruptcy doesn't help because we have to reorganize the debt, but it doesn't remove it. Working with our financial advisors too, who have given us a proposal to move us forward, avail ourselves to use TANS, and RANS. Is there any grant money that we need to collect... looking at all of these. At the end of the day all is not lost, however the very people that were elected are around the table having discussions. We don't need criticisms saying we are doing nothing. we are making this as transparent as possible. That is why we are responding to constituents and the news so that people understand. We will continue to educate and help people understand. I will continue to make recommendations so the mayor and council aware. Any constructive commentary? Comptroller@cmvny.com

Mayor Patterson Howard noted that we cannot give everyone what they want without decimating the city. We are in a precarious position if we do not manage the city correctly.

Council President Browne noted the culture in Mount Vernon has been to attach officials to make people look good. You don't have to do that with professionals at the table. There is a natural tension with our positions and ability to create change, make laws. I want to get things done. I've been in office for a year and 4 months and I've never heard suggestions and ideas

Mayor asked for a motion to adjourn. Morton moved to adjourn, council president Seconded. Roll Call:
ALL AYES.

There being no further business, the meeting was adjourned at 5:34p.m.

Donna M. Jackson, M.Ed.,
Deputy City Clerk
Entered April 18, 2023