

**RESOLUTION NO. 623 -2011, DIRECTING THE RETURN OF RECORDS TO THE JUDICIAL FACILITIES AGENCY**

**WHEREAS**, the County's new \$156 million correctional facility in Yaphank was financed through the Suffolk County Judicial Facilities Agency ("JFA"); and

**WHEREAS**, the JFA agreed in 2007 to allow the County of Suffolk to hold all records related to the jail construction to save space and money; and

**WHEREAS**, in November 2010, the JFA asked the County to return its records; and

**WHEREAS**, to date, the County has not returned the jail records to the JFA; and

**WHEREAS**, the County's delay in returning the records has caused the JFA to ask the New York Attorney General to intervene; and

**WHEREAS**, the County Executive's Office pledged to have the records released to the JFA immediately after media outlets reported the puzzling delay, and still the records have not been returned; and

**WHEREAS**, there is no reasonable excuse for the County's failure to return the JFA's records; now, therefore be it

**1st RESOLVED**, that the Commissioner of the Suffolk County Department of Public Works and all other County departments are hereby directed to return to the JFA all records related to the new correctional facility in Yaphank and its planning and construction; and be it further

**2nd RESOLVED**, that all departments will return all the jail construction records to the JFA within five (5) business days of the effective date of this resolution.

DATED: August 2, 2011

EFFECTIVE PURSUANT TO SECTION 2-15(F) OF THE SUFFOLK COUNTY CHARTER,  
RETURNED BY THE COUNTY EXECUTIVE UNSIGNED AUGUST 18, 2011

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steve Levy  
COUNTY EXECUTIVE

August 15, 2011

Presiding Officer William J. Lindsay and  
Members of the Suffolk County Legislature  
William H. Rogers Legislative Building  
725 Veterans Memorial Highway  
Smithtown, New York 11787

**RE: RESOLUTION NO. 623 – 2011, DIRECTING THE RETURN OF RECORDS TO  
THE JUDICIAL FACILITIES AGENCY.**

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein **RESOLUTION NO. 623 – 2011, DIRECTING THE RETURN OF  
RECORDS TO THE JUDICIAL FACILITIES AGENCY** neither signed nor vetoed.

It is, however, important to correct for the record the many misrepresentations  
surrounding this matter, some of which are contained in this resolution.

The 2007 Construction Agreement referenced in the resolution between Suffolk County  
and the Judicial Facilities Agency (JFA) directs the county to “...*prepare, develop and  
maintain on-site record keeping systems*” and to “*retain project records for a period of  
three years after each portion of the project is completed. Such records shall be  
available for inspection by the (Judicial Facilities) Agency.*” Thus, the records have  
always been available to JFA members at any time.

The assertion in the third WHEREAS clause that the JFA asked the county to return  
records in November of 2010 is misleading, as the JFA chair and co-chair did not – until  
May 10, 2011 – formally request in writing all jail documents.

A November 3, 2010 letter from the JFA chair Martin Cantor merely stated the agency  
“...*become aware that Newsday has requested certain documents regarding the bidding  
process...*” and that “...*the JFA expects the County to release all Project documents  
requested by Newsday.*” Therefore in November it was understood that the JFA was  
only asking for the county to comply with Newsday’s FOIL request – which, in fact, the  
county had on August 2, 2010 with 145 pages of materials.

The day after Chairman Cantor's November 3, 2010 letter, Newsday filed two additional FOIL requests – and those requests were met on December 7 with 110 pages and on January 10, 2011 with another 137 pages of pertinent records.

The statement in the fourth WHEREAS clause that "...to date, the County has not returned the jail records to the JFA" is false. Commencing on June 14, 2011 and throughout the rest of June, the County Department of Public Works began to deliver the following to the JFA:

1. Construction bid documents, drawings and specifications for jail bid packages A, B, C and D
2. Recommendation letters for packages A, B, C and D with all attachments
3. Request for Qualifications packages for the design consultant and construction management consultant, advertising, and selection memoranda.
4. Bid documents, contract awards, recommendation letters, bid sheets, wage rate requests, contracts and commencement and completion letters for bid packages A, B and C.
5. Contract letters, construction meeting minutes and change orders for bid packages A, B and C.
6. Bid documents, contract awards, recommendation letters, bid sheets, wage rate requests, contracts, and commencement and completion letters for bid package D.
7. Contract letters, construction meeting minutes and change orders for bid package D.
8. Shop drawings for bid packages A, B, C and D
9. Payment requisitions for bid packages A, B, C and D
10. All permits, utility correspondence and documentation for bid packages A, B, C and D.

At the July 27 Ways and Means Committee meeting, regarding this resolution, the new chair of the JFA and the Commissioner of Public Works both stated to the committee that the satisfactory documents had been delivered. At that point, this resolution should have been deemed unnecessary.

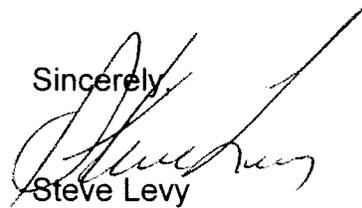
The fifth WHEREAS clause states "...the County's delay in returning the records has caused the JFA to ask the New York State Attorney General to intervene." What was not stated in that clause is that, in fact, the Attorney General's office, two weeks after the JFA asked for intervention, replied that it would be taking no action and expressing no opinion on the matter.

And while the sixth WHEREAS clause references reports by "media outlets" about the matter, it is important to note that while the media outlet in question reported on the JFA's request to the Attorney General's office, the same media never reported on the fact that the AG office took no action on the matter. This media outlet reported that requests were made for records, but (not surprisingly) never reported it when volumes of materials were given over this time.

Again, since the creation of the JFA, all jail records have been available for inspection by any JFA member upon request. There has never been any such request to inspect the records.

This resolution is therefore neither signed nor vetoed, and this letter serves to correct the record on the issue.

Sincerely,



Steve Levy

County Executive of Suffolk County

cc: All Suffolk County Legislators  
Tim Laube, Clerk of the Legislature  
Christine Malafi, Esq., Suffolk County Attorney  
Lynne A. Bizzarro, Esq., Chief Deputy County Attorney  
Christopher Kent, Chief Deputy County Executive  
Edward Dumas, Chief Deputy County Executive  
Eric Naughton, Deputy County Executive for Finance and Management  
Ken Crannell, Deputy County Executive  
Connie Corso, Budget Director  
Eric Kopp, Assistant Deputy County Executive  
Dan Aug, Director of Communications  
Mark L. Smith, Deputy Director of Communications

SUFFOLK COUNTY  
County Legislature  
RIVERHEAD, NY



*This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 2, 2011 and that the same is a true and correct transcript of said resolution and of the whole thereof.*

*In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.*

*Tim Laube*

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Clerk of the Legislature

Intro. Res.

1585

Res. No.

623

August 2, 2011

**Motion:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Eddington, Montano, Cilmi, Lindsay, Viloría-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Co-Sponsors:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Eddington, Montano, Cilmi, Lindsay, Viloría-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Second:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Eddington, Montano, Cilmi, Lindsay, Viloría-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R	
1	Edward P. ROMAINE						
2	Jay H. SCHNEIDERMAN						
3	Kate M. BROWNING						
4	Thomas MURATORE						
6	Sarah S. ANKER						
7	Jack EDDINGTON						
9	Ricardo MONTANO						
10	Thomas CILMI						
11	Thomas F. BARRAGA						
12	John M. KENNEDY, JR.						
13	Lynne C. NOWICK						
14	Wayne R. HORSLEY						
15	DuWayne GREGORY						
16	Steven H. STERN						
17	Lou D'AMARO						
18	Jon COOPER						
5	Vivian VILORIA-FISHER, D.P.O.						
8	William J. LINDSAY, P.O.						
	Totals	18					

MOTION
<input checked="" type="checkbox"/> Approve
___ Table: _____
___ Send To Committee
___ Table Subject To Call
___ Lay On The Table
___ Discharge
___ Take Out of Order
___ Reconsider
___ Waive Rule ___
___ Override Veto
___ Close
___ Recess
APPROVED <input checked="" type="checkbox"/> FAILED ___
No Motion ___ No Second ___

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
___ NOT ADOPTED

*Tim Laube*

Roll Call \_\_\_ Voice Vote

Tim Laube, Clerk of the Legislature