Introduced by Presiding Officer Lindsay Laid on the Table: 3/24/2009

PROCEDURAL MOTION 6 –2009, APPROVING PARTIAL SETTLEMENT OF MTBE LITIGATION WITH DEFENDANTS GULF OIL LIMITED PARTNERSHIP AND CUMBERLAND

WHEREAS, Procedural Motion No. 4-2001, authorized the retention of a law firm to take legal action against oil companies, refineries and other responsible parties to compel the clean up of Methyl Tertiary Butyl Ether ("MTBE") contamination of Suffolk County water supplies or recover reimbursement for damages/costs associated with the MTBE contamination; and

WHEREAS, Weitz and Luxenberg, 180 Maiden Lane, New York, NY, was selected to bring the appropriate legal actions on behalf of the County of Suffolk pursuant to Procedural Motion No. 6-2001; and

WHEREAS, Procedural Motion No. 9-2006 authorized the retention of Baron and Budd, P.C., 3102 Oak Lawn Avenue, Suite 1100, Dallas, Texas, as co-counsel in the MTBE litigation; and

WHEREAS, Weitz and Luxenberg initiated an action on behalf of the County of Suffolk in federal district court against numerous oil companies and refineries claiming damages arising from the contamination of water supplies by MTBE and Tertiary Butyl Alcohol ("TBA"); and

WHEREAS, the County's case is part of the Multi-District Litigation caption, *In re Methyl Tertiary Butyl Ethel (MTBE) Products Liability Litigation*, Master File No., 1:00-1898, MDL1358 (SAS), M21-88 (S.D.N.Y.); and

WHEREAS, subsequent procedural motions approved partial settlements of the County's MTBE litigation with other named defendants; and

WHEREAS, Procedural Motion 22-2008 approved a partial settlement of the County's MTBE litigation with Exxon Mobil under which the County of Suffolk is entitled to a payment of $100,000 from which attorneys fees and expenses will be paid; and

WHEREAS, outside counsel has now recommended accepting a settlement with Gulf Oil Limited Partnership (GOLP) and Cumberland Farms, Inc. (Cumberland) under which the County of Suffolk will be paid an additional $19,591.98 from which attorneys fees and expenses will be paid; and

WHEREAS, pursuant to the tentative settlement with GOLP and Cumberland, in the event contamination is detected in a County-owned well that has not been previously impacted MTBE or TBA, GOLP and Cumberland will either pay its allocated share of treatment costs, arbitrate or mediate the issue of its responsibility, or be subject to new litigation; now, therefore be it

1st **RESOLVED**, that a settlement of the County's MTBE claim against GOLP and Cumberland, *In re Methyl Tertiary Butyl Ether (MTBE) Products Liability Litigation*, as described herein, is approved; and be it further

2nd **RESOLVED**, that the Presiding Officer of the Suffolk County Legislature and Counsel to the Suffolk County Legislature are hereby authorized to execute such documents as may be necessary to effectuate such settlement.

DATED:

EFFECTIVE IMMEDIATELY PURSUANT TO §A2-15(A) OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE

Intro. Res. PM6 Res. No. —

March 24, 2009

Motion:
Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloria-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	Brian BEEDENBENDER	✓				
6	Daniel P. LOSQUADRO	✓				
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO	✓				
10	Cameron ALDEN	✓				
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
X 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 X FAILED ____
No Motion ____ No Second ____

RESOLUTION DECLARED
X ADOPTED
____ NOT ADOPTED

Roll Call ____ Voice Vote X

Tim Laube

Tim Laube, Clerk of the Legislature