

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steve Levy  
COUNTY EXECUTIVE

July 23, 2010

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

2010 JUL 23 P 4:10  
Suffolk County Executive  
Steve Levy

**RE: RESOLUTION NO. 634-2010, A CHARTER LAW TO STRENGTHEN THE INDEPENDENCE OF THE ETHICS COMMISSION.**

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein "**Resolution No. 634- 2010 A Charter Law to strengthen the independence of the Ethics Commission** vetoed in its entirety.

This resolution imposes an unnecessary cost on taxpayers at a time when we could afford it least.

Ironically, at a time when many members of the Legislature have questioned and criticized the cost and practice of the use of outside counsel by the Department of Law, the Legislature seeks to do exactly that with this resolution.

Paying for outside counsel for the Ethics Commission does nothing to create a more independent board, since it is the board itself which would appoint its counsel and it is the board – not the counsel – that renders any decisions.

This resolution is based upon an unfounded presumption that the Suffolk County Ethics Commission – a three-person board with one appointee from the Executive branch and two appointees from the Legislative branch – is subject to "political pressure and influence."

On its very face that presumption is unjustifiably disparaging to the reputation of the members of the Ethics Commission – two-thirds of whom the Legislature has appointed – who have volunteered their time and their expertise to serve. And it is completely without merit. No Commissioner, including those appointed by the Legislature, has ever

complained of being pressured or influenced by anyone. To the contrary, the Commissioners have advised the Legislature, in writing, that their decisions reflect their "independent judgment and are not dictated or directed by counsel."

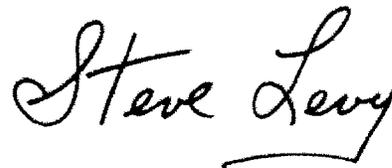
If the Legislature is concerned about the ability of their own appointed Commissioners to act independently, then the Legislature should exercise due diligence and appoint Commissioners they believe can fulfill the responsibilities independently.

Additionally, the unfounded presumption disparages the integrity of the attorneys and staff of the Suffolk County Department of Law and its members who advise and assist the Commission in order to carry out day-to-day functions. These attorneys are bound by both the New York Rules of Professional Conduct as well as the Suffolk County Code of Ethics and take their responsibilities very seriously.

There has not been presented any instance or example where outside counsel may possess some level of knowledge or expertise on municipal ethics that the Department of Law does not. Further, the Department of Law attorneys and staff give priority to Commission matters and are immediately available to the Commission should the need arise. Additionally, in the rare instances where the Commission believed that a potential conflict of interest involving the Department of Law has existed, the County has retained outside counsel to provide assistance. This is a most cost effective approach, especially when you consider that the Department of Law attorneys have expended hundreds of attorney hours assisting the Commission in the past twelve months, at no additional cost to the taxpayers.

For these reasons, I strongly urge the Legislature to sustain my veto of this resolution.

Sincerely,

A handwritten signature in black ink that reads "Steve Levy". The signature is written in a cursive style with a prominent underline under the name "Levy".

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  
Connie Corso, Deputy County Executive for Finance and Management  
Ken Crannell, Deputy County Executive

Ben Zwirn, County Executive Assistant  
Eric Naughton, Budget Director  
Dan Aug, Director of Communications  
Mark L. Smith, Deputy Director of Communications

**RESOLUTION NO. 634 -2010, ADOPTING LOCAL LAW  
NO. -2010, A CHARTER LAW TO STRENGTHEN THE  
INDEPENDENCE OF THE ETHICS COMMISSION**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on January 4, 2010, a proposed local law entitled, "**A CHARTER LAW TO STRENGTHEN THE INDEPENDENCE OF THE ETHICS COMMISSION**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. -2010, SUFFOLK COUNTY, NEW YORK**

**A CHARTER LAW TO STRENGTHEN THE INDEPENDENCE OF  
THE ETHICS COMMISSION**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that the Suffolk County Ethics Commission can only be effective if it is independent and insulated from political pressure and influence.

This Legislature further finds that the authority and credibility of the Ethics Commission is undermined when there is even an appearance that the Commission is subject to external forces that affect its independent judgment.

This Legislature finds that historically the Ethics Commission has relied on the Suffolk County Department of Law for legal assistance and advice in conducting its business and making its determinations.

This Legislature determines that the Ethics Commission would be better served by counsel that it appoints directly and which is answerable solely to the Commission.

This Legislature further determines that severing the ties between the Ethics Commission and the Suffolk County Department of Law would strengthen the Commission and enhance its independence and credibility.

Therefore, the purpose of this law is to authorize the Suffolk County Ethics Commission to hire independent counsel to assist the Commission in carrying out its mission.

**Section 2. Amendment.**

Article 30 of the Suffolk County Charter is hereby amended as follows:

**Article XXX, Ethics Commission.**

\* \* \* \*

**§30-3. General administrative powers.**

A.) The Commission shall:

- 1.) Appoint an executive director and independent counsel who shall carry out and implement the policies of the Commission. The Commission may delegate authority to the executive director and independent counsel to act in the name of the Commission between meetings of the Commission, provided that such delegation is in writing and the specific powers to be delegated are enumerated. The power to appoint and or retain such executive director and independent counsel shall be subject only to available appropriations provided therefore in the County Operating Budget and the actual appointment and filling of such positions shall not be subject to approval by the County Executive nor the budget office. The Commission shall be deemed the appointing authority for all such personnel.
- 2.) Appoint such other staff as may be necessary to carry out its duties under this Article, within appropriations provided therefor by the County of Suffolk. The power to appoint and or retain such other support staff shall be subject only to available appropriations provided therefore in the County Operating Budget and the actual appointment and filling of such positions shall not be subject to approval by the County Executive nor the budget office. The Commission shall be deemed the appointing authority for all such staff and personnel. The executive director, independent counsel, and support staff shall not be part of the Suffolk County Department of Law nor supervised by the Suffolk County Department of Law. The Commission, its staff, and its funding shall be treated as a separate agency for purposes of presentation and adoption in the annual County Operating Budget.
- 3.) Adopt, amend and rescind rules and regulations to govern procedures of the Commission which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the Commission may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship. Such rules or regulations shall provide for a date beyond which, in all cases of justifiable cause or undue hardship, no further extension of time may be granted.
- 4.) Review completed conflict and financial disclosure statements as directed by law; provided, however, that the Commission may delegate all or part of this review function to the executive director and independent counsel who

shall be responsible for completing staff review of such statements in a manner consistent with the terms of the Commission's delegation.

- 5.) Receive complaints alleging any violation of pertinent laws.
- 6.) Advise and assist any municipal subdivision in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former local elected officials, local political party officials and local officers and employees.
- 7.) Prepare an annual written report to be submitted to the County Executive and the County Legislature summarizing the activities of the Commission and recommending changes in the laws governing the conduct of local elected officials, local political party officials and local officers and employees.

\* \* \* \*

**§30-4. Review of conflicts and financial disclosure statements.**

- A.) The Commission or the Executive Director, independent counsel and staff of the Commission, if responsibility therefor has been delegated, shall inspect all financial disclosure statements filed pursuant to Chapter 61 of the Suffolk County Code, or filed pursuant to the requirements of § A30-10 of the Suffolk County Administrative Code to ascertain whether any person subject to such reporting requirements has violated any local law governing conflicts of interest or prohibited activities. Any person, political party officer, County Legislator, countywide elected official, county officer or employee or member or employee of the County Legislature required to file any other financial disclosure form or statement under any other law or statute shall file such form or statement with the Suffolk County Ethics Commission on or before the 15th day of May with respect to the preceding year subject to any exception contained in § A30-10A of the Suffolk County Administrative Code as would be applicable to the particular circumstances.

\* \* \* \*

**Section 3. Applicability.**

This law shall apply to actions occurring on or after the effective date of this law.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm,

partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 5. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(21) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 6. Effective Date.**

This law shall take effect January 1, 2011.

[ ] Brackets denote deletion of existing language.  
\_\_\_ Underlining denotes addition of new language.

DATED: June 22, 2010

APPROVED BY:

**VETOED**  
County Executive of Suffolk County

Date: 7-23-10

Intro. Res. 1004

Res. No. 034

June 22, 2010

**Motion:**

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

**Co-Sponsors:**

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

**Second:**

Romaine, Schneiderman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vilorio-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	Daniel P. LOSQUADRO	/				
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	14	2	1	1	

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 _____

Roll Call  Voice Vote \_\_\_\_\_

*Tim Laube*

Tim Laube, Clerk of the Legislature