BUDGET AND FINANCE COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLTURE

Minutes

A regular meeting of the Budget and Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on November 14, 2006.

MEMBERS PRESENT:
Legislator Ricardo Montano, Chairperson
Legislator Lou D'Amaro, Vice Chairman
Legislator Cameron Alden
Legislator Jon Cooper
Legislator Viloria-Fisher
Legislator Daniel P. Losquadro
Legislator Jay H. Schneiderman

ALSO IN ATTENDANCE:
George Nolan, Counsel to the Legislature
Ian Barry, Assistant Counsel
Renee Ortiz, Chief Deputy Clerk
Gail Vizzini, Director of Budget Review Office
Robert Lipp, Deputy Director of Budget Review Office
Ben Zwirn, Assistant Deputy County Attorney
Catherine Stark, Aide to Leg. Schneiderman
Allen Kovesdy, Budget Office, County Executive
Bob Martinez, Aide to Chairman Montano
Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Dominick Marrocco, Local 282 Teamsters
Tony Pirozzi, Local 282 Teamsters
And all other interested parties

MINUTES TAKEN BY:
Diana Kraus, Court Stenographer

(THE MEETING COMMENCED AT 9:50 AM)

CHAIRMAN MONTANO:
Could we have Legislators report to the horseshoe and start the meeting in a minute. Okay. I'm going to call to order the meeting of Budget and Finance Committee. We'll start with the Pledge of Allegiance led by Legislator Alden.

SALUTATION

CHAIRMAN MONTANO:
Okay. We don't have any correspondence and there were no cards presented; is that correct? Okay. So, we're going to move right into the agenda.

TABLED RESOLUTIONS

We'll start with the tabled -- is there anyone that would like to address the committee before I start? Hearing none, we will move to tabled resolutions.

IR 1523, amending the 2006 Operating Budget and transferring funds to Pederson Krag Mental Health Clinic. (Mystal)

LEG. COOPER:
Motion to table.

LEG. D'AMARO:
Second.

CHAIRMAN MONTANO:
Motion to table. Seconded.

LEG. ALDEN:
Just on the motion.

CHAIRMAN MONTANO:
On the motion, Legislator Alden.

LEG. ALDEN:
What was original purpose of that? And did we take care of that in the '07 Operating Budget?

CHAIRMAN MONTANO:
I have no -- I have no answer to that. Maybe someone else could --

LEG. COOPER:
Yeah, it was taken care of.

LEG. ALDEN:
Great. You want to do it subject to call, then?

LEG. COOPER:

Sure.

MR. NOLAN:
It's going to lapse.

CHAIRMAN MONTANO:
Okay. All right. All in favor? Opposed? Abstentions? Motion carries. That's motion to table. It's going to die on its own.
(Tabled. Vote: 7-0-0-0)

IR 1658, electing a cents per gallon rate of sales and compensating use taxes on motor fuel and diesel in lieu of the percentage rate of such taxes pursuant to the authority of Article 29 of the Tax Law of the State of New York. (Romaine)

LEG. COOPER:
Motion to table.

CHAIRMAN MONTANO:
Motion to table. Second?

LEG. D'AMARO:
Second.

CHAIRMAN MONTANO:
Second. Any discussion on the motion? All in favor? Opposed? Abstention? Motion to table carries.
(Tabled. Vote: 7-0-0-0)

IR 1788, a common sense cost mitigating offset plan for the cents-per-gallon sales tax. (Losquadro)

LEG. COOPER:
Motion to table.

CHAIRMAN MONTANO:
I'll second that. All in favor? Opposed? Abstentions? Motion carries. **(Tabled. Vote: 7-0-0-0)**

IR 1815, establishing a Program to Reduce Unfair Home Energy Nuisance Taxes on Suffolk County residents. (Alden)

LEG. COOPER:
Motion to table.

CHAIRMAN MONTANO:
I'll second that.

LEG. ALDEN:
On the motion.

CHAIRMAN MONTANO:
On the motion.

LEG. ALDEN:
Through the Chair. Budget Review; Gail?

MS. VIZZINI:
Yes.

LEG. ALDEN:
I have a question about this year's budget. I believe we had some money set aside for debt stabilization; is that correct?

MS. VIZZINI:
We do have money set aside for debt stabilization. We also have LIPA settlement monies in a separate reserve fund, $16 million.

LEG. ALDEN:
The LIPA settlement, though, we didn't receive the LIPA settlement?

MS. VIZZINI:
Not yet.

LEG. ALDEN:
No. And that's for next year. But I'm talking about -- that stabilization for '06, didn't we have an account? And how much was in that?

MS. VIZZINI:
After the omnibus there's $20 million in the debt reserve.

LEG. ALDEN:
Okay. But just '06, not '07 -- '07 was established at twenty million.

MS. VIZZINI:
I didn't bring the recommended budget. I know that going into '07 there was 39 million but in '06 -- for the purposes of discussion I'm going to say about twenty million but I'll look it up.

LEG. ALDEN:
Okay. My point is, I think we're establishing a history of putting money into an account that never gets used. And what is that for? Appearance maybe? Maybe some of it is legitimate as far as trying to keep our bond rating up, but it sounds like it's illegitimate. And now we put another twenty million into next year. So this is just an ongoing procedure that we're taking taxpayers' money, we're putting it into an account that doesn't get used. And then next year we're establishing another account and putting more money into it.

So it's smoke and mirrors as far as budgeting. And I think that the people will deserve something along the lines of having some of their energy tax reduced. They've paid -- and they've overpaid. And they're being burdened. And this is -- this is a tax that is the exact opposite of what -- we've got programs and we spend millions of dollars a year trying to make affordable housing programs and things of that nature to make it so the people in Suffolk County can go and live in their homes. And this is just totally unfair. And I think that instead of one of the these funds, I think we out to offset it and seriously look at a program to either reduce that home energy tax or to complete do away with it.

So I'd be opposed to tabling this. I think that we should give it a very serious look right now. I've been patient all year long. And at the advise of the Chair and the Presiding Officer, I waited 'til budget time. And that it really was never discussed in the budget time. And I think that now is -- now that we've passed our end of the budget I think it's a totally relevant time. And we're going into a heating system -- or a season where people are going to get hit by this. I think it's relevant to think about giving them a break on this.

CHAIRMAN MONTANO:
One question. Why wasn't it taken up in the budget?

LEG. ALDEN:
Because -- it was the budget was presented us as being so tight by the County Executive that there was no room to even look at this. And this was an ongoing programming. We're doing this right now in '06. Or we had done this in '06. So I don't know why -- I don't know why it wasn't given it serious thought in the budget.

CHAIRMAN MONTANO:
Anyone want to comment on it?

LEG. D'AMARO:
I will.

CHAIRMAN MONTANO:
All right. Legislator D'Amaro.

LEG. D'AMARO:
Yes. Thank you. Good morning. I tend to agree. I think that we went through the budget process. There is -- I think now in '07 $20 million dollars in a debt stabilization reserve fund. And the question in my mind is what type of reserve fund do we need to maintain in order to not to affect our bond rating? After all we did achieve the bond rating, the highest level before we funded in the '07 budget. And I think that if there is some of these funds available, the best thing we can do with them is give some of the same relief that Legislator Alden is talking about when it comes to heating your home over the winter.

So my question really is two fold. One, you know, what is the real number in the debt stabilization reserve fund? And what do we really need to maintain in there? And the second I would have is if we enacted this bill, what would be the impact? What would it cost? I don't have the fiscal impact statement in front of me.

LEG. ALDEN:
And, Legislator D'Amaro, would you suffer just one interruption, too? Even a portion of this because the last time we did it was for, I believe, six months. You know, like we try to do it through the heating season so even if we did like three months or something like that, what are the options? Because I'd be more than happy to co-sponsor something if you wanted to go and look at a smaller period of time.

MS. VIZZINI:
As far as reserve funds, there's 123 million in the tax stabilization reserve, which by state law is capped at 10% and by our own local laws is capped at 120 million in combination with the debt reserve or the equivalent of -- which is -- it can't go lower than 5% of the General Fund, but right now it's 6.3. So it's a little bit more than our own 5% cap. The debt reserve was adopted at 13.1 million in '06. That was the Medicaid recovery monies. The estimate for '06 was 20.7 million. It consisted of 11.6 which is the actual check cut for the Medicaid recoveries as opposed to the 13.1. And 9.1 million in late property tax payments. That was also estimated for the debt reserve.

Moving into '07, currently without benefit of any vetoes, any knowledge about any vetoes, after the omnibus there's 20 million in the debt reserve.

LEG. D'AMARO:
Okay. Now the debt reserve 20 million in '07, that is comprised of the 13.1 from '06 plus whatever else was funded in the omnibus budget that is now back before the County Executive; is that correct?

MR. LIPP:
The $ 13 million that was adopted was what we perceive to get in. And that would be like the Medicaid recoveries. And we wound up with 11.6 exactly. And then we added some more monies, 9.1 that Gail was referring to. What happens is we took money out -- the recommended budget takes money out of that fund. And I believe it's 13.8 or something like that. But then when you add in what was included in there, that 9.1 plus another 6.7 in 2007 recommended, plus the Legislature added another -- a little over four million, it comes in at the end of the day -- at the end of 2007, it would be twenty million on the button.

LEG. D'AMARO:
So the '06 debt reserve was actually tapped, but then replenished in '07?

MR. LIPP:
Correct.

LEG. D'AMARO:
Okay. So we're going -- so at the time that the bond rating was achieved, is it fair to say there was roughly $11 million in the debt reserve fund?

MR. LIPP:
11.7

LEG. D'AMARO:
Which was the '06 actual?

MR. LIPP:
Estimated

LEG. D'AMARO:
Estimated. Okay.

MR. LIPP:
'06 isn't over yet so it's still an estimate.

LEG. D'AMARO:
All right. So at the time we achieved our highest bond rating, we had roughly $11 million in the debt stabilization reserve fund and now it's up to $20 million? We're projected for $20 million in '07?

MR. LIPP:
Subject to vetoes.

LEG. D'AMARO:
Right. Okay. All right. My other question only, if you have the fiscal impact statement -- I apologize, I don't have it in front of me.

CHAIRMAN MONTANO:
I can give you one.

MR. LIPP:
1815 we're talking about? Just to make sure we're on the same page?

LEG. D'AMARO:

Yeah.

MR. LIPP:
What would happen is it would reduce by 1% the way it's written now in September of '06 so that it would need to be updated by 1%; from 2.5 to 1.5%. Then it would reduce it by another half a percent down to 1% in September of '07. And then it would go back to -- that is it's a temporary reduction. It would go back to the 2.5% in September of '08. Just to look at the full year impact for '07 we're talking -- our previous fiscal impact was 21.5 million -- 25 and a half million for '07 and 21.5 million for '08. So you're talking over 25 -- 20 to $25 million range per year for two years subject to when we actually get it implemented.

LEG. D'AMARO:
Right. And that's based on a full year or a full season?

MR. LIPP:
Yeah, well, what it is, it's based on a --it's based on, I guess, really what we're talking about is getting it done for a full year for '07 and '08. And it's a 1% reduction as of now September of '06 which once again would have to be updated. So presumably we would get it in for the start of the year if we assume that, the 1% that would be the 21 and a half million. And then we reduce it in September of '07 by another half of one percent. So we go from two-and-a-half to one-and-a-half percent. And then down to one percent. So you're talking about, you know, in the mid 20 million dollar range per year for two years.

LEG. D'AMARO:
All right. When we say the whole year, we don't mean the heating season? We mean the actual calendar year?

MR. LIPP:
Correct.

LEG. D'AMARO:
Right. So 25.5 million projected with some revision required but projected for '07.

MR. LIPP:
Well, home heating oil includes your LIPA bills.

LEG. D'AMARO:
Right. This is an energy tax -- sales tax reduction.

MR. LIPP:
Yes. Correct. So to say the heating season is only a piece of the puzzle.

LEG. D'AMARO:
Okay. Thank you.

CHAIRMAN MONTANO:
Go ahead, Legislator Alden. Then Legislator Schneiderman.

LEG. ALDEN:
It actually needs to be tabled because this one would kick in, you know, right now. So it's impossible to do that so it needs to be tabled for that. And just to give you, like, a little bit of history, in '01 when the Twin Towers were knocked down, the Legislature -- and I voted against it -- but the Legislature increased the home energy tax -- it was over 1%. They basically doubled it. So county

government functioned on about one and a quarter, something like that, for all those years. Then when '01 hit, we felt that, you know, our revenues -- our sales tax revenues were going to impacted so the Legislature passed a bill that doubled that energy tax. And that's how it got up to its current level. I'm just giving you some historical perspective when we look to go forward.

CHAIRMAN MONTANO:
Legislator Schneiderman, did you have some comments?

LEG. SCHNEIDERMAN:
Yeah. First on that last statement that the home heating costs are in your LIPA bill isn't necessarily true. It is if it's electric. If it is -- if it's gas on the LIPA system, Keyspan system. But there's a lot of people particularly in my neck of the woods with fuel oil. And that doesn't show up on your LIPA bill. We use that for heating.

MR. LIPP:
The point I was just trying to make is that LIPA is the biggest piece to that home energy portion of the sales tax. Obviously not everybody has a LIPA bill, but it is typically the largest piece.

LEG. SCHNEIDERMAN:
Well, everybody has a LIPA bill but it's not necessarily their heat. That's what I was trying to say. So everybody's got electricity. With the exception of maybe Greenport.

MR. LIPP:
Yes. The point I was trying to make also is you're getting a bill in the summer also is my point.

LEG. SCHNEIDERMAN:
Right.

MR. LIPP:
When it gets hot, it gets expensive.

LEG. SCHNEIDERMAN:
Right. And I think the best way to provide this whole energy -- energy relief would probably be through that LIPA settlement. Can I ask what the status of that LIPA settlement is? And did we budget -- in the budget that we just approved, did it include revenues from that LIPA settlement?

MR. LIPP:
Defer to counsel.

LEG. SCHNEIDERMAN:
Well the one question is for BRO and I guess the other's for Counsel. In the budget did that include LIPA monies?

MS. VIZZINI:
Yes, the recommended budget has a separate fund anticipating $16 million from the LIPA settlement that would have constituted the revenue for the gasoline rebate. But it doesn't spend the money.

LEG. SCHNEIDERMAN:
It doesn't spend it.

MS. VIZZINI:
Yeah. As for as the status of the litigation, I would have to refer to -- defer to George.

MR. NOLAN:

I spoke to our Counsel a week or two ago about the case. The case is not settled. And, in fact, we had passed a resolution procedural couple months ago expending some more funds to have a consultant do a forensic audit of LIPA's books. And Counsel's recommended that that be completed before we contemplate settling the case so we know all the facts before we do so.

CHAIRMAN MONTANO:
I'm sorry, go ahead Legislator Schneiderman.

LEG. SCHNEIDERMAN:
Let me just probe Counsel a little bit. We were hung up. Is it over how much they owe us or whether they owe us money at all?

MR. NOLAN:
Basically he needs -- this is Irving Like -- he wanted the audit to determine what the potential exposure was for LIPA to us before we could decide what is a fair settlement number.

LEG. SCHNEIDERMAN:
Right. I'm just wondering if there's general agreement and we could get kind of a -- basically a down payment on that and then we could fight over the remaining differentials.

CHAIRMAN MONTANO:
I don't think so.

MR. NOLAN:
I don't think we're there yet.

LEG. SCHNEIDERMAN:
Just so -- because I do think it's really important to try to provide some kind relief to homeowners. And this is an easy way to do it. We may disagree over a gas card versus home heating assistance, but I think this is the most direct way to benefit the residents.

MR. NOLAN:
It'd probably be a mistake to make any decisions based on that settlement. We're not -- we're just not there yet.

LEG. SCHNEIDERMAN:
All right. So is it anticipated within the next few months? Or is it possible that this could drag out through '07?

MR. NOLAN:
I don't know. I don't know.

LEG. SCHNEIDERMAN:
Right. So if we don't have the LIPA money, then we are back then to that debt stabilization reserve. And we're back to the original argument about whether we should take some of that money and provide some relief to our homeowners like we did last year.

CHAIRMAN MONTANO:
Okay. All right. I'm going to resist putting too much on the record on the advise of Counsel. Legislator Viloria-Fisher.

LEG. VILORIA-FISHER:
I have a question, Robert, regarding the debt reserve. I think I lost you at some of the numbers that you had given us. You said that in '06 with eleven million in Medicaid recovery and nine million in

late property taxes, that's how we arrived at the $20 million total? I just wasn't certain if that's what you said.

MR. LIPP:
The '06 adopted was 13. The '06 estimated that the Executive shows in his budget was actually 26 million, which is made up of -- which is made up of a little bit of interest, the property tax monies of 9.1 million, l6 million of Medicaid recoveries. And another 5.3 million which is a transfer from the General Fund.

What happened is last year '06 -- or this year -- not last year. This year we adopted $5.3 million transfer to tax stabilization reserve as required. And the recommended budget the Executive decided instead, which you can do, transfer that money to debt service reserve instead to provide flexibility because you put it in tax stabilization reserve, you would need a two and a half percent increase in property taxes to access it. You wouldn't in the case for sending it to debt service reserve.

LEG. VILORIA-FISHER:
So that was done both in 2006 and 2007?

MR. LIPP:
What I just explained was the 2006 estimated.

LEG. VILORIA-FISHER:
Okay.

MR. LIPP:
Then we also spend money. We spent $23 million debt service reserve transfers back to the General Fund to pay for a portion of our debt service in '07.

LEG. VILORIA-FISHER:
Okay. And now in '07, what is the estimated?

MR. LIPP:
In '07 the adopted by Legislature as opposed to final adopted --

LEG. VILORIA-FISHER:
Right.

MR. LIPP:
-- is just over $20 million.

LEG. VILORIA-FISHER:
Okay. So it's 20 million again. And that is comprised of?

MR. LIPP:
That is comprised of -- we're spending $23 million. We're taking in all of these monies but we're transferring it from the General Fund recognizing as revenue, bringing it back into debt service the monies I just spoke about plus tobacco payments of like $6.7 million plus the Legislature added another a little over $4 million. So if you add the plusses and minuses, it's 20 million.

LEG. VILORIA-FISHER:
Okay, it's really hard to hear.

MR. LIPP:
Sorry.

LEG. VILORIA-FISHER:
No, it wasn't your fault. It was just a lot of side bar conversation. Okay. Robert, I want to go now to the estimated cost of the resolution that's before us which would be about $25 million a year. Now, if we were to adopt relief for heating, in other words we had done this before where we had -- the winter months was when we had the tax relief on the home energy tax relief, because as Legislator Schneiderman had said well, it's not in your LIPA bill; this is an energy tax not just a heating oil tax. So it really is very high in the summer. You know, there's a lot of air conditioning in homes. So what would be the impact?

MR. LIPP:
Last year we had a six month temporary 1% reduction from December '05 to the end of May '06. So that probably would be more in line to what Legislator Alden's referring to as opposed to the full year thing. And that was -- we had budgeted, I believe, a $13 million reduction.

LEG. VILORIA-FISHER:
I thought I remembered $13 million.

MR. LIPP:
And if I can remember correctly it was more like eleven and a half or so, the actual.

LEG. VILORIA-FISHER:
All right. So that's interesting because of the -- estimate here is 25. Then that air conditioning, you know, those summer months energy use really spikes up -- you know, it accounts for -- those six months account for more than half of what -- well, if it wound up being 11 and you're estimating 25, then it would be -- 14 would be for those other six months.

MR. LIPP:
Well, among other things; it's too late for December.

LEG. VILORIA-FISHER:
Right. I'm not suggesting it. I'm just comparing what the costs are. You know, sometimes we look at energy costs and home energy use regarding this tax as what it costs to heat the homes. You know, in the Whereases in this resolution it refers to people freezing in their homes. And actually the lion's share of the tax we're bringing in is from that summer month use.

MR. LIPP:
And they're boiling in their homes.

LEG. VILORIA-FISHER:
Yeah, but you can open a window. In the winter you have no alternative. You have to heat your home. Okay. But it's something for us to consider whether we're looking at the people who can't afford to heat their homes as opposed to air conditioning the home.

CHAIRMAN MONTANO:
Thank you. Legislator Cooper.

LEG. COOPER:
I had a couple of questions for BRO. Number one, if this proposal was implemented going back, the home energy tax, would you be able to quantify the amount of relief per -- for typical residence; for a typical homeowner in Suffolk County on an annualized basis?

MR. LIPP:
We could estimate it. I think we were talking about in the $30 range per homeowner but I'm hot sure. That's off the top of my head. And also it makes the assumption that the savings are passed along.

LEG. COOPER:
Okay. So at most $30 but perhaps less than that. Number two, do you have any comparative figures for other counties in New York State as to what home energy tax, if any, they impose because my recollection last time we debated this a year or two ago was that there were some counties that had 8% tax, 10 tax%; that Suffolk County was actually on the low end. Is my recollection correct?

LEG. ALDEN:
I can answer one. Nassau has zero.

LEG. COOPER:
I realize that. That's not my question.

LEG. ALDEN:
That's our neighbors.

MR. LIPP:
I don't remember off the top of my head. I did look at it. I know that there are -- I think the majority of -- but I'd have to check this. I think the majority of counties don't have the home energy tax but I'm not -- I'd have to check that.

LEG. COOPER:
Would you be able to get that information for the next meeting?

MR. LIPP:
Oh, yeah.

LEG. COOPER:
Thanks.

LEG. LOSQUADRO:
Mr. Chairman? Rick?

CHAIRMAN MONTANO:
Legislator Cooper, are you done?

LEG. COOPER:
Yep.

CHAIRMAN MONTANO:
Okay. Legislator Losquadro.

LEG. LOSQUADRO:
Thank you. Robert, I just want to make a comment on something you said there because it's a little bit similar to what we were discussing with the tax on the gasoline. You said you would have to make the assumption that that savings would be past along. I think this is something that's fundamentally different from individual retailers for a commodity. This is in essence a semi-regulated monopoly. And I think it's far more difficult for an entity such as an energy delivery company to not pass along something such as a removal or reduction in a sales tax if they were going to -- especially with all the scrutiny that LIPA has been under. I think if their rate was going to increase in a corresponding amount to the reduction in a sales tax, that it would certainly draw the ire of, you know, the populus, you know, and the elected officials throughout Long Island. So, I think this would be something that it would be much easier to quantify the actual benefit to the customer or the consumer because it would be much more difficult for the entity to not pass this savings along. Do you agree with that?

MR. LIPP:
In the economic's literature there's a difference between the statutory incidents who actually pays and the tax burden -- the tax incidents. And that's who actually bears the burden. And I've seen estimates of it. And basically to make a -- well, I'm going to get confusing here.

LEG. LOSQUADRO:
Please, English. Thank you.

MR. LIPP:
I don't know how to say it in English. It's hard to say. It depends upon the elasticity of demand and elasticity of supply. And I know that that's not an answer that you would -- you know, that is an explanable answer.

LEG. LOSQUADRO:
I actually remember that frightening enough.

MR. LIPP:
But it has to do with what the market will bear in English. And, therefore, since the market is fluid, it's hard to say if a price goes up or down it's because of market conditions or because of changes in taxes.

LEG. LOSQUADRO:
But as far as this individual tax showing up on a bill -- I'm talking specifically about the LIPA bill since that's something that was -- that was brought up. That would be much more easy to quantify. I'm not talking about the --

MR. LIPP:
Yes. The LIPA portion -- you're right with the LIPA portion because it's --

LEG. LOSQUADRO:
The other -- the other portion with the home heating fuel, again, that's more similar to the gasoline retailers because these are individuals who can adjust the price more freely within the market. But I think the LIPA portion is something that is very important here because this is something that can be very easily quantified and much less subject to fluctuations within the market.

MR. LIPP:
Yeah, that's an excellent point. In fact with the LIPA bill since they only, you know, change their rates once in a while, you could see when that happens, and if they meet the change of rate so in all likelihood you would see if there was something going on there. So I would venture to say that it -- probably it would be passed on to the consumer for the LIPA portion for the home heating oil, that kind of stuff. That's a lot more murky.

LEG. LOSQUADRO:
That's something that's --

MR. LIPP:
Yes, yes, that's an excellent point.

LEG. LOSQUADRO:
That's more subject to market volatility. All right. It took a little while for both to find common language but we were both able to get our points across. Thank you.

MR. LIPP:
Yes. English is the first language.

CHAIRMAN MONTANO:
On that note, we have a motion to table, I believe, and a second. All in favor? Opposed? Abstention? Motion carries. **(IR 1815. Tabled. Vote: 7-0-0-0)**

IR 1931 repealing sales and compensating use taxes on bio diesel fuel -- I'm sorry.

1816, repealing home energy nuisance taxes on Suffolk County residents. (Alden)

LEG. COOPER:
Motion to table.

CHAIRMAN MONTANO:
Second.

LEG. ALDEN:
On the motion.

CHAIRMAN MONTANO:
On the motion.

LEG. ALDEN:
Just as -- everything we just said is relevant for this bill in addition. This is just another alternative. This would repeal it completely. And again the cost factors, and if we're going to look at it, then, I think we should look at all options that we have so.

CHAIRMAN MONTANO:
Take a vote. All in favor? Opposed? Abstentions? Motion carries. **(Tabled. Vote: 7-0-0-0)**

Now, to 1931. Repealing sales and compensating use taxes on bio diesel fuel used for home heating (Romaine). I have a request from the County Attorney's Office, Lynne Bizzarro. She would like to speak on this. Lynne, would you like to step forward?

LEG. ALDEN:
We're going to table it.

CHAIRMAN MONTANO:
Well, there's no motion yet. Why don't we have a motion? Motion to table? I need a second.

LEG. ALDEN:
I'll second it.

CHAIRMAN MONTANO:
And a second. And now that we have it on the floor, Lynne, would you like to address this issue?

MS. BIZZARRO:
I believe it's been addressed in the past. Thank you, Chairman Montano, for giving me the opportunity to speak. And I think in fact Counsel to the Legislature has spoken on this; just that there is a legal impediment in this bill in that it seeks to lower taxes on bio diesel fuel only. And it cannot do that pursuant to tax law section 1210. And I just wanted to put that on the record for the Committee.

CHAIRMAN MONTANO:
And that's been made known to the sponsor?

MS. BIZZARRO:
Yes, it has.

CHAIRMAN MONTANO:
Okay.

LEG. LOSQUADRO:
Mr. Chairman?

LEG. COOPER:
Motion to table subject to call.

LEG. ALDEN:
That's why we tabled it last time.

LEG. LOSQUADRO:
If I may, Mr. Chairman?

CHAIRMAN MONTANO:
Well, I'm going to entertain Legislator Losquadro first.

LEG. LOSQUADRO:
To Ms. Bizzarro, I know that the state has a number of tax incentives in place for alternative fuels specifically bio fuels, not just bio diesel but the Governor was making a strong push towards ethenol and providing tax incentives for those bio fuels. Is it something in the tax law that you said that prohibits us from --

MS. BIZZARRO:
Correct.

LEG. LOSQUADRO:
-- singling out a single -- a single fuel?

MS. BIZZARRO:
Right.

LEG. LOSQUADRO:
Does the state have any -- are you aware since you've researched this does the state have any programs in place that provide specific incentives to specific fuel products?

MS. BIZZARRO:
Not to my knowledge. And the governing law here, as I said, Section 1210 of the tax law -- and it doesn't -- that section does not allow you to single it out.

LEG. LOSQUADRO:
Okay. Thank you.

CHAIRMAN MONTANO:
All right. Before you start I think there was a motion to table subject to call. Do we have a second on that? I'll second it. Legislator Alden, go ahead.

LEG. ALDEN:
Lynne, doesn't the federal government actually have subsidies in place for bio diesel? They have tax incentives and subsidies.

MS. BIZZARRO:
They have very well.

LEG. ALDEN:
Okay. You're just talking about New York State, though?

MS. BIZZARRO:
Correct.

LEG. ALDEN:
Okay. Thanks.

LEG. VILORIA-FISHER:
I have a question.

CHAIRMAN MONTANO:
Legislator Viloria-Fisher.

LEG. VILORIA-FISHER:
Aren't there subsidies for solar energy use in New York State?

MS. BIZZARRO:
There could be various subsidies out there. I'm just specifically speaking to this bill under the state tax law and the fact that the sponsor --

LEG. VILORIA-FISHER:
So it's not energy sources. You're talking about fuel? Specific fuels?

MS. BIZZARRO:
Correct. And you just can't parcel than one out.

LEG. VILORIA-FISHER:
I see.

CHAIRMAN MONTANO:
Any other comments? Lynne, on an unrelated matter, will you be at the Ways and Means Committee meeting?

MS. BIZZARRO:
I will.

CHAIRMAN MONTANO:
All right. I had asked for an update.

MS. BIZZARRO:
You did and I apologize for the delay. I just got some answers yesterday. I still don't have all of them and I didn't want to give you half of a pie. So I was going to even call you later on today if you want?

CHAIRMAN MONTANO:
No, it can wait 'til Thursday, right?

MS. BIZZARRO:
Okay, that's fine.

CHAIRMAN MONTANO:
Sounds good. Thank you. No other questions. We have a motion to table subject to call. All in favor? Opposed? Abstentions?

LEG. ALDEN:
Opposed.

CHAIRMAN MONTANO:
Abstentions? One opposition?

LEG. LOSQUADRO:
No, two oppositions.

CHAIRMAN MONTANO:
Two opposition. Motion to table subject to call carries? Yes.

LEG. SCHNEIDERMAN:
I'm opposed to table subject to call, too.

CHAIRMAN MONTANO:
Three opposition. No abstentions.

LEG. SCHNEIDERMAN:
I would table it but subject to call is too much.

CHAIRMAN MONTANO:
All right. **(1931 tabled subject to call. Vote: 4-3-0-0. Legislators Alden, Losquadro and Schneiderman opposed)**

IR 1985, Of the Suffolk County Legislature electing a cents per gallon rate of sales and compensating use taxes on motor fuel and diesel fuel in lieu of the percentage rate of such taxes with a $3.00 cap pursuant to the authority of Article 29 of the Tax Law of the State of New York. (Schneiderman)

LEG. SCHNEIDERMAN:
Motion to table.

LEG. COOPER:
Second.

CHAIRMAN MONTANO:
Motion to table and second. Any discussion? All in favor? Opposed? Abstention? Motion carries. **(Tabled. Vote: 7-0-0-0)**

IR 2024 adopting offsets in connection with cap on gasoline sales tax. (Schneiderman)

LEG. SCHNEIDERMAN:
Motion to table.

LEG. D'AMARO:
Second.

CHAIRMAN MONTANO:
All in favor? Opposed? Abstention? Motion carries. **(Tabled. Vote: 7-0-0-0)**

IR 2045, adopting local law number 2006, a Charter Law to provide for fair and equitable distribution of public safety sales and compensating use tax revenues. (Romaine)

LEG. COOPER:
Motion to table.

CHAIRMAN MONTANO:
It's still open. So we need to table for public hearing.

MR. NOLAN:
Yes.

CHAIRMAN MONTANO:
All right. I'll make a motion to table for public hearing. The hearing apparently is still open. Do I have a second?

LEG. D'AMARO:
Second.

CHAIRMAN MONTANO:
Seconded. And all in favor? Opposed? Abstentions? Motion carries. **(Tabled. Vote: 7-0-0-0)**

IR 2098 amending the 2006 Operating Budget and transferring funds for Suffolk County Society for the Prevention of Cruelty to Animals. (Browning)

LEG. COOPER:
Motion to approve.

LEG. LOSQUADRO:
Motion to table for the purposes of discussion. I have a question on the offset.

LEG. COOPER:
As did I.

CHAIRMAN MONTANO:
Well, we have one motion to approve. Do we have a second?

LEG. D'AMARO:
Second.

CHAIRMAN MONTANO:
We have a second. Do we have another motion? All right. On the motion?

LEG. ALDEN:
I'll second the motion to table.

CHAIRMAN MONTANO:
All right. So we have a motion to table which takes precedent. But on the motion, any discussion?

LEG. LOSQUADRO:
Well, my question was the offset. Because as I had seen it, it was Social Security.

MR. LIPP:
It's been amended.

LEG. LOSQUADRO:
It has? I haven't seen the amended copy.

CHAIRMAN MONTANO:
And can you tell us what the amendment entails?

MS. VIZZINI:
Sure. There was an amended copy 1011. The offset was changed as recommended by the County Executive to the Suffolk Community Council of Transportation Advocacy Group. The group was funded in the '06 recommended budget for 20,000. This takes 10,000.

CHAIRMAN MONTANO:
This resolution is for 10,000?

MS. VIZZINI:
Yes.

CHAIRMAN MONTANO:
Okay.

LEG. ALDEN:
On the motion.

LEG. LOSQUADRO:
Oh, it's not 15 anymore?

LEG. COOPER:
No. That was changed.

MS. VIZZINI:
No. There was an amended copy 1011.

CHAIRMAN MONTANO:
Legislator Alden, do you have any comments?

LEG. ALDEN:
Yes. I just have a question. Was this money -- even the 10,000 now that it's down to, was that in the legislative portion of the omnibus for '06?

MS. VIZZINI:
No. The County Executive's recommended budget in '06 actually provided $20,000 for this Transportation Advocacy Group.

LEG. ALDEN:
Well, then it becomes Legislator Browning either changed or used the Legislative initiative money for her district already. So this would be in addition to what she's already spent for her district.

MS. VIZZINI:
This in addition to omnibus monies, yes.

LEG. ALDEN:
And all during the year we've shown a little bit discipline as far as on that so I don't know if we want to break from, you know, what we've done all year long.

LEG. COOPER:

I don't think this is in district. This is --

CHAIRMAN MONTANO:
Legislator Cooper, go ahead.

LEG. COOPER:
I believe this is for the county wide SPCA. I don't think it's in district.

LEG. ALDEN:
So then I'll go with my comment that if you do it right now these people aren't going to get the money until the end of the year at best. And it should have been taken care in the '07 Operating Budget instead of spending money in the '06 Operating Budget. So I think it's a little bit late in the year to be correcting, you know, perceived county-wide wrongs and it should have been taken care of in '07.

CHAIRMAN MONTANO:
Is there any money in there in '07 for this, Gail?

LEG. ALDEN:
And I'd like to know what the purpose is, you know, what they're going to use the 10,000 --

CHAIRMAN MONTANO:
If you know. If you don't know --

MS. VIZZINI:
Well, the final Resolve clause pertains to the purchase of disaster related equipment and supplies for the agency. So it looks like it would be a one time purchase for whatever they need for animal rescue in the event of a disaster.

LEG. ALDEN:
So they didn't come to us for the '06 budget and that say we need this. And Legislator Cooper actually has some Legislature pending that would save animals in the event of a national disaster or disaster that hits here. So it's not part of that. So this is just like almost out of the clear blue, you know, dropped on us not even in mid-stream. You know, this is at the end of the stream for '06. And wasn't -- there was no recommendation or no request for '07. I'm just a little bit puzzled at why we would break from what we've been doing showing, you know, some fiscal discipline all along and do something like this. And it sounds like this should have been taken care of by individuals omnibus money for '07.

LEG. D'AMARO:
If I can go on the record.

CHAIRMAN MONTANO:
Legislator D'Amaro.

LEG. D'AMARO:
I tend to agree with that what you're saying except that I think, Legislator Alden, I think what happened here is this probably got caught up in the offset debate. And for lack of a better term may have slipped through the cracks, I think, because the offset was stated as Social Security and the sponsor was looking for a different offset once we got into the budget cycle. I just think it was not addressed because the focus was not on finding the new offset until now after the budget was complete.

So I don't necessarily disagree with you that this should have been carried in the '07 budget and addressed, but I think that, you know, we could exercise our authority and recognize the fact that maybe this just kind of slipped through the cracks.

LEG. ALDEN:
And I would agree with you if there was a need established, but I haven't had a presentation from these folks. And I didn't even get a phone call from them for the '07 budget or the '06 budget. So, you know, in that -- that's totally lacking. If they came in and said that they need these now and they showed how it fits in with Legislator Cooper's program, that's fine, you know. That's fine. It's a county wide project then.

LEG. D'AMARO:
Right. Again, I don't think you're incorrect, but I think, again, that this organization may have been relying more on this bill than on the budget process. And unfortunately the sponsor is not here to tell us, you know, about the need and about the organization so.

CHAIRMAN MONTANO:
All right.

LEG. ALDEN:
Can we get them down?

CHAIRMAN MONTANO:
The sponsor or the organization?

LEG. ALDEN:
No, the sponsor to come down with the group and have a presentation. We're spending $10,000.

CHAIRMAN MONTANO:
Legislator Fisher? Viloria-Fisher.

LEG. VILORIA-FISHER:
Cameron, I have to say that I agree with many of the points that you're making. We've tried to be consistent regarding people's omnibus funding and using these offsets sets during the year. The offset that's being used is actually from a resolution that I had put in for the transportation monies. Gail, is that correct?

MS. VIZZINI:
Your resolution was to transfer the monies that were included in Public Works to another -- under the administration of another department.

LEG. VILORIA-FISHER:
But it wasn't from my omnibus.

MS. VIZZINI:
No.

LEG. VILORIA-FISHER:
No, it wasn't. It was from the '06 budget. It was transferred out of one to the other.

MS. VIZZINI:
Yes.

LEG. VILORIA-FISHER:
Okay. So it was never omnibus.

MS. VIZZINI:
Not to my recollection.

LEG. VILORIA-FISHER:
Okay. I thought it had been. I thought it been -- I thought Brian Foley had put that in.

MS. VIZZINI:
We'll double --

LEG. VILORIA-FISHER:
Originally. But then Health Department didn't want to administer it. And so I was trying to keep that Transportation Advocacy Program alive so I moved it to another department.

MS. VIZZINI:
I'm double checking my recollection. I also do want to point out that we cannot ascertain that there's funding in the -- there certainly was no recommended funding in 2007 for this agency.

LEG. VILORIA-FISHER:
For the SPCA?

MS. VIZZINI:
For the Suffolk County SPCA.

LEG. VILORIA-FISHER:
Okay. And I have to say that -- and I believe I remember Legislator Browning speaking of some compelling reason why they needed to access this money now. I don't recall the -- and I haven't seen them either. What I would like to do because we have questions and because it's so late in the year, if there is some kind of compelling reason, perhaps we can discharge this without recommendation. And if we don't have a compelling reason before Tuesday, we just don't pass it. I mean but have them come before us on Tuesday.

LEG. ALDEN:
Good.

LEG. VILORIA-FISHER:
I would like to see -- because if the SPCA has a compelling reason to try to -- where they would need to spend the money on something for disaster relief regarding animals and the disaster plans, then we should all be privy to that if it's a county wide initiative. I have not been approached by the SPCA either.

CHAIRMAN MONTANO:
That's a motion, I'll second it. Is that a motion?

LEG. VILORIA-FISHER:
Yes.

LEG. ALDEN:
On the motion.

CHAIRMAN MONTANO:
Motion to discharge without recommendation by Legislator Viloria-Fisher. I second it.

LEG. ALDEN:
Would somebody -- and I don't know if the Chairman wants to do it or, Vivian, you want to do it; but also recommend to Legislator Browning that, you know, they look at and present how it fits in with Legislator Cooper's piece, too, because we don't want to double spend for something.

LEG. VILORIA-FISHER:
Right.

CHAIRMAN MONTANO:
Gail, I had a question. And I didn't jot the note. Where is -- what is the offset on this again? It's the money that was used for the Suffolk County Transportation?

LEG. VILORIA-FISHER:
Transportation Advocacy. Clifford Hymowitz.

LEG. ALDEN:
He's not happy about it but --

LEG. VILORIA-FISHER:
But the contract wasn't going to be signed anyway.

CHAIRMAN MONTANO:
Right. That's my point. The money that was allocated for the transportation group is probably not going to be spent.

MS. VIZZINI:
You know, we were -- first of all I stand corrected. It was not -- Legislator Viloria-Fisher's correct. It was a legislative add in 2006.

LEG. VILORIA-FISHER:
Yes.

MS. VIZZINI:
It was not originally recommended by the County Executive.

LEG. VILORIA-FISHER:
Right.

MS. VIZZINI:
But we were assured by the County Executive's Office, and I can certainly defer to Mr. Zwirn if you would like him to confirm, that in pursuit of offsets that this was a valid offset since there was no intention to move forward on this contract.

CHAIRMAN MONTANO:
Okay.

LEG. VILORIA-FISHER:
That has been my understanding as well from Mr. Hymowitz.

CHAIRMAN MONTANO:
And if we don't move forward on this contract, the money that's allocated goes where? Into the fund balance?

MS. VIZZINI:
If it's not utilized, it would go to fund balance.

CHAIRMAN MONTANO:
Okay. Thank you. All right. We have a motion -- Legislator Losquadro.

LEG. LOSQUADRO:
Thank you, Mr. Chairman. No pun intended but this just sounds like a pet project.

LEG. COOPER:
That was intended.

LEG. LOSQUADRO:
No, no; really I have a group that I work with in my district called -- that happens -- it's actually in Legislator Viloria-Fisher's district called Save-A-Pet. And I do work with them. And in the 2007 budget process I included monies in the budget --

LEG. VILORIA-FISHER:
As did I.

LEG. LOSQUADRO:
-- for that organization. I have to agree with Legislator Alden wholeheartedly; that this should have been taken up -- and with all due deference to Legislator D'Amaro, you know, ignorance of the law is no excuse. If, you know, if it happened to slip through the cracks and the Legislator who was sponsoring this didn't think to include it in her appropriations for the 2007 budget and just thought that, you know, the mix-up with the offset would resolve itself, that unfortunately that's not something that we're forced to contend with. You know, the old expression, you know, lack of planning on your part does not constitute an emergency on my part. I think this is something that should have been included in the budget. And I find no reason to move forward with the discharge on this.

If anything at the next cycle, the purpose for the committee process would be to have this organization and have the sponsor come down here and make a compelling argument to us as to why this committee should move this forward. I think, you know, $10,000 for an organization for what appears to be just normal course of doing business expenses isn't justified for us to move this out of this committee.

CHAIRMAN MONTANO:
Legislator Viloria-Fisher.

LEG. VILORIA-FISHER:
Again, to be consistent, I really do feel that we should have a heads up when we're looking at these programs so late in the year. Being that it was -- it had been my resolution that is being used as an offset, it was monies that I had put in for the transportation advocacy. If indeed there is a compelling reason for this -- for the SPCA to have this $10,000 grant, if there might have been some kind of oversight or some kind of problem that occurred during the year that makes it a compelling funding, then, I would be happy to be a co-sponsor on this because it would have been coming as an offset from a resolution that I had had. And --

LEG. LOSQUADRO:
Too many if's in that statement.

LEG. VILORIA-FISHER:
Pardon me?

LEG. LOSQUADRO:
Too many if's in that statement.

LEG. VILORIA-FISHER:
Well, because I have a lot of questions. And that's why I made the motion to discharge without recommendation. And certainly my commitment is that if there is not a set of compelling reasons for this that I will not support it on Tuesday. But I want to give it the ability to be out there because otherwise they won't have time to spend the money.

CHAIRMAN MONTANO:
Legislator Cooper.

LEG. COOPER:
I also am going to support the discharge motion. I wanted to say that this is more than simply being about protecting pets. There are also human lives at stake because there have been numerous studies documenting that in many instances people, particularly the elderly will refuse to be evacuated in the case of a flood or a hurricane or another natural disaster because they had to leave their pets behind. And that's why there are more and more municipalities across the country that are implementing animal disaster relief programs such as this. And if the SPCA believes that in order for such a program to be effective, they need additional cages and leashes and muzzles for the pets that have been evacuated. And without that the program can't be implemented; and that human lives could be at stake as a result. I think it's well worth the $10,000. I understand the concerns that you raised about the process. They're valid ones but we certainly should discharge this, allow the SPCA to come before you on Tuesday, make their case. And if we agree that on the merits this makes sense, then we can support it at that time.

CHAIRMAN MONTANO:
Legislator Losquadro.

LEG. LOSQUADRO:
Well, Jon, that was a great job at tugging at the heart strings, but the point is we don't know what this money is for. So, this -- it may not be human lives at stake. It may not be for muzzles. The point is I have no idea what this money is for.

LEG. COOPER:
We'll find out on Tuesday.

LEG. LOSQUADRO:
So your entire statement was speculatory. And that's the reason why I'm not going to vote to discharge this. I want to see this come before us so I have actual information instead of just speculating as to what it might be about. So call the vote, Mr. Chairman, if you will, but I think this should come back before this committee with the actual information as to what this is before we go moving anything out of this committee. It's our fiduciary responsibility.

CHAIRMAN MONTANO:
Well, we have a motion to discharge without -- tabling takes precedence. So we're going to vote on the tabling motion first. All in favor of tabling? Opposed?

LEG. COOPER:
Opposed.

CHAIRMAN MONTANO:

Abstention. So it doesn't get tabled. Motion to discharge without recommendation? All in favor? Opposed? Abstentions?

LEG. ALDEN:
Opposed.

LEG. LOSQUADRO:
Opposed.

LEG. SCHNEIDERMAN:
Opposed.

LEG. COOPER:
Animal hairs.

CHAIRMAN MONTANO:
Motion carries. **(2098 Discharged without recommendation. Vote: 4-3-0-0. Legislators Schneiderman, Losquadro and Alden opposed)**

LEG. COOPER:
I'm just joking, Dan.

LEG. VILORIA-FISHER:
Shame on you.

CHAIRMAN MONTANO:
All right. You want to say something, Legislator Losquadro?

LEG. LOSQUADRO:
Since Legislator Cooper felt the need to have something put on the record at the end there, I will for the record say that there appears to be a double standard in place for budgeting requirements.

LEG. VILORIA-FISHER:
Wait a minute.

CHAIRMAN MONTANO:
Okay. Moving right along. Moving along. **IR 2099, amending the 2006 Operating Budget and transferring funds to the Peconic Community Council for the purchase of a van for Maureen's Haven Program. (Romaine)**

LEG. D'AMARO,
Motion to table.

LEG. COOPER:
Second.

LEG. ALDEN:
On the motion.

CHAIRMAN MONTANO:
On the motion, Legislator Alden.

LEG. ALDEN:
Through the Chair, Budget Review is this -- is this legislative initiative money or omnibus money?

MS. VIZZINI:
No. The offset that I have is Social Security, 25,000.

LEG. ALDEN:
It hasn't been amended?

MS. VIZZINI:
Not according to the Clerk's Office.

LEG. ALDEN:
And also -- maybe Lou would remember. Did we pick this up in the working group? Or Gail, do you remember?

MS. VIZZINI:
I'm going to have to look.

LEG. ALDEN:
Anyway, the motion's to table.

CHAIRMAN MONTANO:
All in favor? Opposed? Abstentions? Motion carries. **(Tabled. Vote: 7-0-0-0)**

IR 2100, amending the 2006 Capital Budget and Program, amending the 2006 Operating Budget, transferring Assessment Stabilization Reserve fund to the Capital Fund and appropriating funds in connection with improvements to sewer district number 7, Medford. (Alden)

LEG. ALDEN:
Before there's even a motion, I'll withdraw this if you want me to withdraw it. This is just to offer an alternative rather than go out and bond on the outside; this would actually borrow from the Sewer Stabilization and finance another project just like we've been doing. But it's not in my district. This came up when we did the capital budget so if it's the will of this Committee, I can get it off the agenda if you don't want to bond it then --

LEG. COOPER:
This is our will.

LEG. ALDEN:
You don't want to bond it, then vote it off. Kill it.

CHAIRMAN MONTANO:
Withdraw it?

LEG. ALDEN:
I'm not going to withdraw it.

CHAIRMAN MONTANO:
You just said you're going to withdraw it.

LEG. ALDEN:
I'll go with the will -- kill it.

CHAIRMAN MONTANO:
But that's not what you said. You said you would withdraw it.

LEG. ALDEN:
I'm not going to withdraw it because I think --

CHAIRMAN MONTANO:
Play the record back.

LEG. D'AMARO:
Motion to kill it.

LEG. ALDEN:
I'll make a motion to approve.

CHAIRMAN MONTANO:
Do I have a second?

LEG. LOSQUADRO:
Yeah, I'll second it.

CHAIRMAN MONTANO:
All right. All in favor motion to approve? All opposed?

LEG. COOPER:
Opposed. **(Approved. Vote: 6-1-0-0. Leg. Cooper opposed) (Vote taken again at the end of the agenda)**

CHAIRMAN MONTANO:
The nays have it.

LEG. ALDEN:
Just on the motion.

CHAIRMAN MONTANO:
Motion --

LEG. ALDEN:
You do realize that this is a much more expensive way and you're going outside the way that we've established and --

LEG. COOPER:
Wait, wait. So was that a set up?

CHAIRMAN MONTANO:
We already took a vote.

LEG. ALDEN:
But the people already spoke on this, too. They overwhelmingly approved our keeping the sewer district projects in the sewer district, not allowing offsets and things like that.

CHAIRMAN MONTANO:
Should have said that before the vote. All right, we're going to move on.

LEG. ALDEN:
Now it's killed.

CHAIRMAN MONTANO:

It's killed. It's off the agenda.

LEG. ALDEN:
Nice kill.

LEG. VILORIA-FISHER:
I'm sorry, can you explain that again? Because I thought that voting for it was --

CHAIRMAN MONTANO:
All right. Let's open it up.

LEG. VILORIA-FISHER:
-- contrary to that referendum. I was confused by what you said before.

LEG. ALDEN:
No, it's directly related to what the people spoke about. They want -- they want sewer district projects only done in sewer districts. This does it the opposite. This does it the way --

CHAIRMAN MONTANO:
Hold on, hold on. Before we go, do you want to reconsider it?

LEG. VILORIA-FISHER:
I just want an explanation.

CHAIRMAN MONTANO:
Go ahead.

LEG. VILORIA-FISHER:
Can you just explain it, please, again?

LEG. ALDEN:
Okay. This resolution would take money -- instead of going to the outside source, it would borrow money from the sewer stabilization to do the project.

LEG. VILORIA-FISHER:
To do only sewer projects?

LEG. ALDEN:
A sewer project. This is one specific sewer project.

LEG. VILORIA-FISHER:
Okay. I thought you were saying that it would be used for capital projects.

LEG. ALDEN:
This is a capital project.

LEG. VILORIA-FISHER:
But I meant broad range capital projects. I didn't realize it was only within the sewer district.

LEG. ALDEN:
Right. This allows the money to be borrowed from the broad range capital projects to be used for a sewer district project which is exactly the opposite of what the people just said they want us to do.

LEG. VILORIA-FISHER:
I have to read it again.

CHAIRMAN MONTANO:
All right. In my opinion this should be discussed before the vote. We already took the vote so unless we want to reconsider it, you know, let's move on.

LEG. ALDEN:
Whatever.

INTRODUCTORY RESOLUTIONS

CHAIRMAN MONTANO:
IR 2193. Introductory Resolutions. Adopting Fiscal discipline tax constraint (Discretionary) Operating Budget for 2007 through Smart Management. (County Executive)

LEG. COOPER:
Motion to table subject to call.

CHAIRMAN MONTANO:
Second.

LEG. ALDEN:
Motion to approve.

CHAIRMAN MONTANO:
We have a motion to table subject to call.

LEG. SCHNEIDERMAN:
Second.

CHAIRMAN MONTANO:
We have a motion to approve.

LEG. ALDEN:
The other one takes precedence.

CHAIRMAN MONTANO:
Okay. All in favor? Gail, do you want to comment on this before we take a vote? Let Gail comment.

MS. VIZZINI:
IR 2193 and 2194 are the resolutions that normally accompany the submission of the County Executive's recommended budget. This would adopt the recommended budget as it was presented. It's directly in conflict with the actions that you took in terms of the omnibus resolution.

CHAIRMAN MONTANO:
Okay. Any comments? Any comments?

LEG. COOPER:
I think historically this is how we deal with it.

CHAIRMAN MONTANO:
Let's just -- you know, the formality, I think, becomes irrelevant. We could table it, we could table it subject to call. We could defeat it. Whatever the pleasure is. Right now there's a motion to table

subject to call on the table. And it's been seconded. So without another motion I'm going to take a vote on that. All in favor of tabling subject to call?

LEG. COOPER:
Aye.

CHAIRMAN MONTANO:
Aye. All opposed?

LEG. ALDEN:
Opposed.

CHAIRMAN MONTANO:
Abstentions? Jay, what's --

LEG. SCHNEIDERMAN:
I'll support the tabling subject to call.

CHAIRMAN MONTANO:
Okay. It's the same effect, Jay. Legislator Losquadro.

LEG. LOSQUADRO:
I'm fine.

LEG. ALDEN:
I'm opposed.

LEG. SCHNEIDERMAN:
It's not as clean as the other one.

LEG. ALDEN:
The other way it would die for lack of a motion. But that's all right. Another day we'll bring it up again a little later on.

LEG. SCHNEIDERMAN:
Fine. It's tabled subject to call. **(Vote: 6-1-0-0. Leg. Alden opposed)**

CHAIRMAN MONTANO:
IR 2194. Yeah, the vote was 5 to 2 as I record it. Excuse me?

MS. ORTIZ:
6-1.

CHAIRMAN MONTANO:
Oh, 6-1. All right. **On IR 2194 adopting fiscal discipline tax constraint (mandated) Operating Budget for 2007 through Smart Management. (County Executive)** If you don't mind I'm going to do the same motion, same --

LEG. SCHNEIDERMAN:
Don't make a motion. It dies.

CHAIRMAN MONTANO:
No. Jay, I'd rather not do that.

LEG. SCHNEIDERMAN:
Whatever you want.

CHAIRMAN MONTANO:
And, you know, I'm just looking at the possibilities. I mean we've passed the omnibus but it's subject to veto so it has to come back to us.

LEG. SCHNEIDERMAN:
Okay.

CHAIRMAN MONTANO:
So, I don't anticipate any issues but we should have a fall back. And I believe in my mind that this would be the fall back. I would table it subject to call and be done with it.

LEG. SCHNEIDERMAN:
Fine.

MS. ORTIZ:
So same motion, same --

CHAIRMAN MONTANO:
Same motion, same second, same vote hopefully.

LEG. LOSQUADRO:
Well --

CHAIRMAN MONTANO:
All right. Let's take a vote.

LEG. LOSQUADRO:
Based on that --

CHAIRMAN MONTANO:
No. Legislator Losquadro --

LEG. LOSQUADRO:
Based on the interest raised, I'm going to say I'm opposed now.

MS. ORTIZ:
Okay. So it's not the same.

LEG. LOSQUADRO:
I don't see this as a fall back.

LEG. ALDEN:
No, I don't either.

CHAIRMAN MONTANO:
No, well, that's not -- you know, it's not a fall back. But technically it's put in there -- I'm willing to table it subject to call. I think it's the same effect. Somebody wants to make another motion, that's their prerogative.

LEG. ALDEN:

I'm glad to hear that you say that you don't conceive of any problems with handling vetoes.

CHAIRMAN MONTANO:
I don't -- I don't conceive of any, do you?

LEG. ALDEN:
I do.

CHAIRMAN MONTANO:
Okay. Well, maybe you should vote to table this subject to call.

LEG. ALDEN:
I see the storm clouds coming in the distance. I voted for the budget. I voted for the omnibus. And I fully intend to -- not to sustain any vetoes but to override any and every veto in its entirety until something else happens, though.

CHAIRMAN MONTANO:
Right. We're glad to hear that. Are we going to take a vote? I mean this was supposed to be a 20-minute meeting. All right. On that, same motion, same second --

LEG. LOSQUADRO:
No, I'm opposed.

CHAIRMAN MONTANO:
I didn't say same vote. Same motion, same second. Call the vote. All in favor of tabling subject to call? All opposed?

LEG. ALDEN:
Opposed.

LEG. LOSQUADRO:
Opposed.

CHAIRMAN MONTANO:
Two. Abstentions? Where's Jay? What's your position?

LEG. SCHNEIDERMAN:
I'm here. Table subject to call.

CHAIRMAN MONTANO:
Okay. All right. Gee, whiz.

IR 2222, to readjust compromise and grant funds and charge-backs on real property correction of errors by County Legislature Control # 758-2006. (County Executive) I'm going to make a motion to approve and to place on the consent calendar.

LEG. COOPER:
Second.

CHAIRMAN MONTANO:
Any discussion? All in favor? Opposed? Abstention? Motion carries. **(Approved. Vote: 7-0-0-0)** Being no further business of the committee, its hereby adjourned.

LEG. VILORIA-FISHER:
Wait a minute. Don't adjourn.

CHAIRMAN MONTANO:
Wait a minute. Not adjourned. Not adjourned. The gavel has not hit.

LEG. VILORIA-FISHER:
No, because I just spoke with Budget Review. And I really looking carefully at 2100, I'd like to reconsider it.

CHAIRMAN MONTANO:
Make a motion? Is that a motion to reconsider?

LEG. COOPER:
That's yours, Cameron.

CHAIRMAN MONTANO:
Is that a motion to reconsider?

LEG. VILORIA-FISHER:
Yes, that's a motion to reconsider.

CHAIRMAN MONTANO:
Do we have a second?

LEG. SCHNEIDERMAN:
Second.

CHAIRMAN MONTANO:
Okay. Now this is to reconsider. All in favor of re-considering say aye? Any opposed? Abstentions? It's back on the agenda. Do we have a motion?

LEG. ALDEN:
Motion to approve.

LEG. VILORIA-FISHER:
And I'll second the motion to approve.

CHAIRMAN MONTANO:
We have a motion to approve and a second. On the motion.

LEG. VILORIA-FISHER:
Okay. The reason I have chosen -- well, I made the motion to reconsider is that as I just spoke with Budget Review again about this. And we have a $42 million in the assessment stabilization fund. And using 300,000 from that would be a cheaper way of going ahead with this project rather than bonding it. And that money is there precisely for this purpose. And so looking at -- see, I was under the impression that it was coming under the tax stabilization -- from the tax stabilization fund when in fact it's coming from the assessment stabilization fund. So it just makes sense. And so I will approve this. I approve of this expenditure.

CHAIRMAN MONTANO:
Okay. Legislator Cooper.

LEG. COOPER:
I just wanted to briefly ask Gail whether she could put that on the record briefly.

LEG. ALDEN:
Vivian Fisher said Cameron just makes sense. I like that.

LEG. COOPER:
No, she didn't say that. You're reading between the lines.

MS. VIZZINI:
In response to Legislator Viloria-Fisher's questions, this resolution was an out growth of reviewing the '07/'09 Capital Program in terms of what was in '06, not in '06 and what was going to be in the '07/'09. And Legislator Alden said that in terms of this particular project, that wouldn't it be more cost efficient to use assessment stabilization reserve funds which are the -- which is the sewers reserve monies than to bond the $300,000 for the associated improvements. And based on that we did this resolution to move this project forward with a transfer from the assessment stabilization reserve fund of $300,000. It's basically cash versus treating it through the normal bonding process.

CHAIRMAN MONTANO:
All right. Legislator D'Amaro's next. But I'm going to ask a question. Legislator Alden, I believe when this came up originally -- correct me if I'm wrong -- this project is in the district of Legislator Eddington. Is that correct?

LEG. ALDEN:
I think so. It's definitely not in my district.

CHAIRMAN MONTANO:
What I'm asking is did you have occasion to talk to or -- basically to confer with the Legislator in whose district this project is in before we take the vote?

LEG. ALDEN:
I think he was on the Capital Budget Committee. And I think he knew about it. So I didn't specifically say, you know, are you for or against this? This is a project that was approved by the Department of Public Works --

CHAIRMAN MONTANO:
Right, I understand that.

CHAIRMAN MONTANO:
-- and the sewer agency and all that kind of stuff so it -- I didn't specifically reach out to him and say did you want to do this? But it did come up in the Capital Budget negotiations and deliberations.

CHAIRMAN MONTANO:
Right. And the reason I bring it up is if it were in my district I would like to know and have some input in, you know, the decision making process before we're approved just as a courtesy. So, you know, that's all I'm saying. Legislator D'Amaro was next and then I'll go back to you, Jon.

LEG. D'AMARO:
Just for BRO, the fund we're citing to use here to tap for the 300,000 is the assessment stabilization reserve fund, does that have stated criteria in order to access those funds?

MS. VIZZINI:
This is Quarter Cent sales tax money that is sent -- certain percent of that money is sent to the assessment stabilization reserve fund. It has to be used for sewer district projects.

LEG. D'AMARO:

It's not -- I mean the title of the fund itself, assessment stabilization. I mean this is not like we're tapping this fund to give back to those within the sewer district or stabilize assessments? It's for a capital project.

MS. VIZZINI:
Well, actually the criteria are that the sewer districts have to increase their taxes by 3% to be eligible for these monies.

LEG. D'AMARO:
Right.

MS. VIZZINI:
Then as they have available funds there is a level of expectation that they pay back the fund. In most cases most of the sewer districts do increase their assessments by the 3% to be eligible for the monies.

LEG. D'AMARO:
Okay. And that's happened in this sewer district? I would assume the 3% increase threshold has been met?

MS. VIZZINI:
That's correct.

LEG. D'AMARO:
My other question was this was a capital project -- an approved capital project in the '06 to '09 capital budget; is that correct?

MS. VIZZINI:
Actually this was probably a request for 2006 that was not included in '06. What the working group was dealing with was the '07/'09 --

LEG. D'AMARO:
Right.

MS. VIZZINI:
-- Capital Program. So in certain cases Legislators would say why can't we move this ahead and put it in '06? How could we do that? Well, we could do that by amending the capital program, cannibalizing another project or in this case use assessment stabilization reserve funds which is a bonafide offset for sewer district capital projects.

LEG. D'AMARO:
I'm just not following you. Why do we need to amend the '06 capital budget?

MS. VIZZINI:
Because there is no monies in '06 for --

LEG. D'AMARO:
Okay. It wasn't budgeted in the capital budget.

MS. VIZZINI:
Correct.

LEG. D'AMARO:
I see.

MS. VIZZINI:
And the decision was not to wait or include it in the '07/'09 but to use the assessment stabilization reserve monies in '06.

LEG. D'AMARO:
So at the time we did the '07 to '09, this issue, do you recall, had been raised and we purposely excluded it from the '07/'09 hoping that we would pass this resolution to fund it from '06?

MS. VIZZINI:
It had to have been discussed in that working group because it was an out growth of it. It may have been in the context of the Budget Review Office recommendations or it may have been in the context of what the departments requested but was not included.

LEG. D'AMARO:
Really all we're talking about there the project is going forward. The real issue is whether we bond it or tap into the reserve fund. That's what the issue really is with this bill. I mean the project is there. It's going to proceed if not by this mechanism of funding it'll be funded through bonding.

LEG. ALDEN:
No.

MS. VIZZINI:
This only addresses the project in '06 with assessment stabilization reserve funds. If this does not pass, there will have to be another resolution either in '06 or in '07 to address the project.

LEG. D'AMARO:
To restore it into the capital project -- into the capital budget for '07/'09 because it's not in there now.

MS. VIZZINI:
Yeah. I'd have to double check. I don't have an adopted capital program with me but I can check.

LEG. D'AMARO:
The reason why I ask is this a project that Public Works intends to go forward with or is recommended?

MS. VIZZINI:
Yes.

LEG. D'AMARO:
Okay. And can you just tell me in '06 how many times the assessment stabilization reserve fund has been tapped?

MS. VIZZINI:
Well, based on the 2007 recommended budget --

LEG. D'AMARO:
Give me a rough -- you know. Many times, a few times?

MS. VIZZINI:
$27,000 has been transferred to eleven different sewer districts for their projects in 2006.

LEG. D'AMARO:

How much was that?

MS. VIZZINI:
27.6 million.

LEG. D'AMARO:
Okay. Thank you, Ms. Vizzini. I appreciate it.

LEG. ALDEN:
Mr. Chairman?

CHAIRMAN MONTANO:
Anyone else? Legislator Alden.

LEG. ALDEN:
One more little piece of background. When we were in the working group on the capital budget, we discussed only limiting offsets to the sewer district and not allowing other, you know, Capital Programs throughout the County. I think it's a good fiscally disciplined procedure. And the Presiding Officer was talking about then we should craft a resolution that would be put on the ballot and we would take care of that end of it. This -- and the discussion actually focussed on that because of this particular project because it was presented to us in the working group as -- by DPW and the sewer agency that they would like to finance it through -- borrowing on the County's dime rather than do it through the sewer stabilization fund. So then the whole history of the sewer stabilization fund came up. And I am the author of that. So I was a little bit familiar with it and stated that was the purpose way back when we did that. And I believe that was in '99 or 2000. We tried to, you know, really set the financial position for the sewers going forward. And I believe in 2000 -- either 11, 12 and 13 I think we actually pay off the initial debt for the Southwest Sewer District and going forward --

LEG. VILORIA-FISHER:
Finally.

LEG. ALDEN:
Finally, right, after 40 years. And then finally instead of rolling it over and costing the taxpayers millions of dollars we did something that was fiscally responsible. And this stabilization will provide the funding for the other districts going forward even for the Southwest Sewer District hopefully to go forward and do their normal maintenance and improvements. So, I thought it was consistent with, you know, everything that we had done. That's why I did not contact the Legislator from that district, but I believe he might have been on the working group. So he would have been privy to all the dialogue as to why we should go this route.

MS. VIZZINI:
Mr. Chairman, if I could just correct my response to Legislator D'Amaro. In 2006 the estimates are $24 million distributed in terms of expenditures to -- I'm sorry. $14.7 million distributed to 24 districts. The information I gave you before was the districts who were actually expected to pay back -- they're expected to pay back.

CHAIRMAN MONTANO:
Legislator Alden.

LEG. ALDEN:
Lou, so you're thinking about because, you know, Vivian and Jon, and most of us have been here, you know, you're probably like the -- I'm not going to say youngest but --

LEG. D'AMARO:
Just don't say rookie.

LEG. ALDEN:
Newest. In -- I believe it's 2013 there would be a huge revenue source to the County so some planning for that now whether we're going to expand sewer districts, you know, use it for economic development or something along those lines, those are things that we should be talking about now, you know, what we're going to do with that revenue stream because it's a quarter of a cent. And it does throw off quite a bit of money and a lot of good can be done with it, you know, in conjunction with planning for the future. You know, and that's something that we really should open up the dialogue now even though, you know, like the funding is in place until, I believe it is, 2013.

CHAIRMAN MONTANO:
Okay. We have a motion on the table. That's to approve. All in favor? Opposed? Abstentions? Motion carries. **(Approved. Vote: 7-0-0-0)**

With that we're adjourned.

(THE MEETING CONCLUDED AT 11:22 AM)
{ } DENOTES SPELLED PHONETICALLY