

## **BUDGET & FINANCE COMMITTEE**

**Of the**

### **Suffolk County Legislature**

A regular meeting of the Budget & Finance Committee was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on February 26, 2008.

#### **Members Present:**

Legislator Ricardo Montano - Chairman  
Legislator Kate Browning  
Legislator John Kennedy  
Legislator Edward P. Romaine

#### **Members Not Present:**

Legislator Jon Cooper - Vice-Chairman

#### **Also in Attendance:**

George Nolan - Counsel to the Legislature  
Ian Barry - Assistant Counsel to the Legislature  
Robert Martinez - Aide to Legislator Montano  
Linda Bay - Aide to Minority Leader Losquadro  
Paul Perillie - Aide to Majority Leader Cooper  
Lora Gellerstein - Aide to Majority Leader Cooper  
Justin Littell - Aide to Legislator D'Amaro  
Bill Schilling - Aide to Presiding Officer Lindsay  
Kara Hahn - Director of Communications/P.O. Lindsay's Office  
Gail Vizzini - Director/Budget Review Office  
Robert Lipp - Deputy Director/Budget Review Office.  
Lance Reinheimer - Assistant Director/Budget Review Office  
Allen Kovesdy - Chief Management Analyst/County Executive's Office  
Connie Corso - Director/County Executive's Budget Office  
Fred Pollert - Deputy County Executive for Finance  
Ben Zwirn - Deputy County Executive  
Tom Vaughn - County Executive Assistant  
Christine Malafi - Suffolk County Attorney  
Lynne Bizzarro - Chief Deputy County Attorney  
Debra Alloncius - Legislative Director/AME

#### **Minutes Taken By:**

Alison Mahoney - Court Stenographer

#### **Minutes Transcribed By:**

Denise Weaver - Legislative Secretary

*(\*The meeting was called to order at 10:07 A.M. \*)*

**CHAIRMAN MONTANO:**

We're going to start the meeting of the Budget and Finance Meeting with the Pledge led by Legislator Browning.

***Salutation***

Please just one moment of silence for all the service people that are serving and those that have passed away in the wars we're fighting.

***Moment of Silence Observed***

Thank you. Okay. We're going to move to the agenda. The first part of the agenda is the correspondence. I've passed out two letters, one received by Legislator Ed Romaine which basically asked that we invite Gail -- can you hear me -- Gail Vizzini and Connie Corso to the next meeting to discuss the issue with respect to the impending shortage in the 2009 budget. We've actually -- we're going to entertain the presentation at our next Budget meeting which is on March 11th. Today we're going to have a presentation by Gail Vizzini explaining to everyone who doesn't know and everyone that's interested what exactly is going to be contained within the budget model that will be presented on the 11th, so I thought that would be a better way to approach this. And we're still having ongoing meetings with the County Executive with respect to any shortage or deficit, or whatever you want to call it, looking into '09.

Another letter from Legislator Kennedy to me as Chairperson requesting that we discuss the issues related to the pending sale of the Suffolk Health Plan. I spoke with the County Executive and the County Attorney yesterday in a conference call. Legislator Kennedy, there are some issues that I understand could not, should not, be discussed in public. So what I'm going to do is at the end of this meeting I'm going to ask that we get a clarification from the County Attorney as to the appropriateness of going into executive session.

**LEG. KENNEDY:**

Mr. Chair?

**CHAIRMAN MONTANO:**

Go ahead, Legislator Kennedy.

**LEG. KENNEDY:**

That would be fine, as a matter of fact. And as you well know, as our Legislative Counsel does, that executive session is something for only a very limited set of criteria.

**CHAIRMAN MONTANO:**

Right.

**LEG. KENNEDY:**

And as long as we can have that discussion beforehand, I'm fine to go ahead and air out what my questions and concerns are.

**CHAIRMAN MONTANO:**

Absolutely. As I explained to the County Attorney, if this area falls within one of the exceptions to the Open Meetings Law and is so certified, then we can go into executive session. We can entertain that discussion after we do the agenda.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN MONTANO:**

Moving right along, Gail, you're -- actually, your presentation is before the public portion, but I have two speakers. Would you yield to -- one of them is from the County Exec's Office. Where are the cards? I know Debbie Alloncius wanted to address the committee. Debbie, would you --

**MS. ALLONCIUS:**

I can wait until after the presentation.

**CHAIRMAN MONTANO:**

All right, so why don't we hold you back. Allen Kovesdy? Allen, would you like to wait until after the budget model.

**MR. KOVESDY:**

Sure.

**CHAIRMAN MONTANO:**

All right, so we'll stay with the agenda and go right into the presentation. Gail, I turn it over to you. By the way, everyone has a handout, okay, to follow.

**MS. VIZZINI:**

Thank you for the opportunity to address the committee. We thought that this might be a good opportunity to educate the committee in terms of what the budget model is, what goes into it, what criteria are taken into consideration, how it came about that we actually have a budget model, especially in light of the new membership in the committee.

This presentation is distinguished from the next presentation at the next meeting which will address more in-depth in terms of the magnitude of what the two Budget Offices believe the potential shortfall to be.

What I'd like to do with your indulgence is I'd like to go through the presentation and then take your questions at the end, but certainly I would defer to whatever the Chairman's pleasure is.

**CHAIRMAN MONTANO:**

I think that's an appropriate procedure. Let's hear the presentation.

**MS. VIZZINI:**

Okay.

**CHAIRMAN MONTANO:**

I'd ask you if -- unless you really have to, I'd ask you to hold the questions until after.

**MS. VIZZINI:**

Okay. Each of you have copies of it so you can follow along there if you choose to or look at the screen. The overview of what I'm going to talk about this morning is why is there a need for a budget model, what is it, what factors are considered, why is it possible that the Budget Office and the Budget Review Office models could be different and what can the committee expect in terms of our next presentation.

This requirement for the budget model is actually in the Charter based on Local Law No. 17 of 1998. The Legislative Intent was to provide additional financial data to make the budget process more responsive to the needs of the Legislature. In '98, Suffolk County was facing numerous multi-year budgetary challenges, much as we are now, but I thought it was interesting to just capture the Legislative Intent for you.

The concerns at that time were stabilizing funding for sewers, welfare reform, depletion of our Tax

Stabilization Reserve Fund. We were experiencing tremendous economic growth and growth in demand for services because of the demographic changes and the sociological and environmental needs. Our population then and now is aging. There was an epidemic of drug abuse, there was an expansion of health benefits, utility costs and a need to preserve the County's groundwater; none of these problems have been solved and they continue to present challenges in the budget.

The law was passed and made part of the Charter to formalize a working relationship between Budget Review and the County Executive's Budget Office, to require both offices to develop a multi-year budget and financial forecast, which we refer to as the budget model.

What do we have to do? The Charter says that we have to meet on a quarterly basis to review year-to-date expenditures. We have to do some projections in terms of are we going to expend what we have in the budget, we review forecasts included in the Operating Budget. We also meet to develop consensus revenue forecasts based on the most current economic and financial data. Often you ask us, you know, what is the status of sales tax, what is the status of property tax; this is where we do our consensus revenue. The way we approach consensus is each office does its own independent forecast and then we come together and explain the differences.

These consensus forecasts predominantly revenue that would include real property tax collections, property tax delinquencies -- and this is all in the Charter -- sales tax, State and Federal aid and departmental income. Expenditures basically cover every possible aspect of the Operating Budget including personnel and personnel related costs, insurance, liabilities, energy, etcetera.

If there is a difference, a significant difference of 5% or more than a million dollars, the Charter expects us to report in writing to both the Executive and the County Legislature why the differences in the budget model. The budget model is also to take into consideration the Capital Program; by that, you know, the one line item, debt service alone can have an impact on the Operating Budget.

So basically what is a budget model? It can be a very simple spreadsheet, but in our case it's a sophisticated spreadsheet which calculates and forecasts the multi-year revenue and expenditures. We make assumptions in regards to growth or declines in various categories. We frequently warn you that the growth rate in sales tax is no longer the lofty six or 7% that it used to be, but it has been decreasing and is now somewhere in the neighborhood of a conservative 2%.

Our budget model includes comparisons to historical perspectives; you know, where were we ten years ago, what happened with property taxes, when was the turnaround, when was the turnaround in the housing market? Historical perspectives of that sort. We view the budget model as an early warning system so that you can consider policy options such as you -- we are doing with the budget panel and such as we are doing with this presentation and the next committee's presentation prior to the development of the '09 Operating Budget.

The factors in a budget model, expenditures and revenue definitely. What we address is how will we end 2007; you know, will that surplus be greater than anticipated in the 2008 budget? It's very plausible. The last several years our year-end surplus has been healthier than what we anticipated in the budgets. That does not mean we do not have a problem because we may have ended the previous year better than we expected.

We take a look at the 2008 expenditures and revenue on what the likely impact is going to be on those revenues. How much more is it going to cost to do business in 2009 compared to 2008? What's the impact of the economy on sales tax, property tax, departmental income, interest earnings, interest expense? And we try to consider some of the relevant economic factors including the housing market, interest rates, consumer confidence and inflation.

Another major concern this year is the impact of the State budget. There are -- it is not uncommon with the State, once it has provided you some relief such as the capping of Medicaid, it's just a matter of time before it takes from you with the other hand, as is proposed in the Governor's

budget.

Why would the Budget Office's model be different than our model? In a sense it's good that they're different because it's a check and balance. First of all, we always sit and talk with them in terms of what their assumptions are. We may have very different assumptions; we could be using a different base number to determine growth or forecast. Sometimes it boils down to, "Well, what year are you talking about? Are you talking about 2007/2008, are you talking 2008/2009?" You have to define what shortfall you're talking about. And the Charter requires, as I said earlier, that significant differences be explained.

What can this committee expect from the next presentation? A joint Budget Office presentation of the information and an explanation of any significant differences. The model will -- forecast will constantly be updated. The further you get into the fiscal year, the more information and data you have and the better monitoring of revenue and expenditures you can do. In mid to late April we'll actually know how we ended 2007, We'll know what that surplus is. We'll have more sales tax checks under our belt to give a better idea than projecting from one or two checks. We'll be able to identify the contributing factors to the problem and what is an estimate of the shortfall in 2009. And we'll update that estimate as we progress toward the preparation of the Capital Program, the College Budget and the 2009 Operating Budget.

We are generally in agreement that there is a problem, the magnitude of the problem is still for us a work in progress. Next on your mind is what are the options for solutions to a shortfall? I'm going to discuss some of the things that have been brought up in previous years as options for solution. We're fortunate in that there are a lot of options. I'm just presenting them, it does not constitute an endorsement on the part of Budget Review that we move forward with any of the things that I'm going to bring to the table. But I just want to refresh your memories and for those of you who are new to Budget and Finance, give you an idea of the options that are out there, the precise numbers in savings have yet to be analyzed and developed.

The County Executive and the Legislature will have to make policy determinations in order to address the anticipated '09 shortfall. There will have to be more discussion of these available policy options and their solutions. Both Budget Offices will be analyzing the pros and cons and giving you the benefit of that analysis as well as a fiscal analysis of the short-term gains versus the long-term impacts.

In the past we've identified several revenue raising capabilities and there certainly are more than what I'm listing here. But for example, we're very fortunate in that we have had the foresight to augment and add to the Tax Stabilization Reserve Fund. We have not had a history of going in and out of the Tax Stabilization Reserve Fund, not that that necessarily is a bad thing, it's not a bad thing. The Tax Stabilization Reserve Fund is there for the purpose of mitigating the tax increases in the General Fund. At the end of '08, there should be about \$130.9 million in the Tax Stabilization Reserve available.

As you know, but I'm going to reiterate, New York State General Municipal Law requires a 2.5% increase in General Fund Property Tax Levy in order to access these funds. That would generate revenue of about 1.27 million and it would be an impact of \$2.30 on the average taxpayer, just to raise it the minimum to access what's in Tax Stabilization Reserve.

Recurring revenue. Recurring revenue is more like taxes and fees that are increased or adjusted so that that revenue comes in every year; I wanted to distinguish this from one-shots, which I'm going to talk about next. One of the policy determinations that will have to be made involves the allocation of sales tax to the Police District versus the appropriate amount of sales tax that would go to the General Fund and what is an appropriate level of General Fund property taxes.

In 2008, \$87 million in sales tax was allocated to the Police District in order to mitigate the need for a tax increase there more than the 2.5% that the Police District increased. The maximum allowable

is three-eighths of one cent or \$102 million in 2008, and this is completely separate from any ongoing litigation or any changes to the Charter.

Recurring revenue would be to increase fees, golf fees, parks fees, consumer licensing, things of that nature. If there was a desire to go in that direction we would price-out estimates of how much revenue we think we could generate from that type of an approach. In the Governor's budget there is a document filing fee where in terms of mortgage transactions, there's a per-page dollar increase and a verification fee, which is expected to be revenue -- recurring revenue generating factor. Whether it remains in the budget, it's approved and whether it's adopted by the individual municipalities is another thing.

One-shots. The good thing about one-shots is they solve the problem, or a part of the solution in terms of the short run, but they contribute to a structural imbalance in that we rely on the one-shots. Budget Review has been critical of the impending structural imbalance in our Operating Budget because we have relied on one-shots to a great extent. But one-shots that are still out there and available to us are the securitization of the tobacco settlement revenue. This would involve a trade-in of the \$20 million that we get on an annual basis that you would take the revenue up-front. We have yet to analyze what the cost of that would be, whether we would be getting -- we certainly wouldn't be getting dollar-for-dollar, but what the discount would actually be, we are in the process of analyzing that.

Securitization of our tax liens, residential, commercial, or one or the other. Since I want to put everything out there in terms of one-shots, another example is the energy tax. For every 1% increase in the energy tax, there is a correlation we estimate to be about \$20 million in revenue.

Revenue is one side of the equation, the other side of the equation is expenditure reductions. These are examples of things we have considered in the past. Refunding; to resolve the 2004/2005 budget shortfall, we did a major refunding. There are still some issues that are available and the Comptroller may be proceeding in this area to do some refunding and bring some savings for 2009. Certainly interest rates are low enough that we should -- if this is a viable option, it should be considered.

Downsizing. Very often the respective Budget Offices look at the core missions of various departments, and this is a very difficult policy decision but this would mean that you would identify core missions and consider discontinuing functions that are nice to have but are not core missions or required by State or other laws to continue.

Consolidations. Although you would have to look into what could possibly be consolidated and are the short-term efficiencies worth it in the long run. Sometimes you are sacrificing checks and balances, you are really not saving as much as it appears, but it certainly is an option.

Liquidation and sale of assets. The sale of Suffolk Health Plan is a good example of sale of an asset to provide a one-shot of revenue. Certainly the County has many assets; we have marinas, we have buildings. Ten or 12 years ago we considered selling the Dennison Building and leasing it back to come up with, you know, cash initially.

**LEG. ROMAINE:**

Good idea.

**MS. VIZZINI:**

So a hard look at our assets and whether we want to sell any of them.

Promoting efficiencies. I think we're pretty efficient in terms of the a lot of the things that we do, we certainly try to be. So that's another study.

Contracting out for new programs; if it's cost effective it certainly might be something to consider;

again, this is on a case-by-case basis.

This presentation again is simply to point out, it's really all about decreasing expenditures or increasing revenue and how much more will it cost us to do business in 2009 than what we have as set out in 2008.

Property tax or a change in property tax, an increase in property taxes is also a source of recurring revenue. This chart shows you that the General Fund Property Tax Levy is \$51 million. A 1% increase in General Fund property taxes would give you \$510,000 in revenue; a 2.25% increase, which is the minimum required to access Tax Stabilization Reserve, gives you \$1.27 million in revenue and has an impact on the average taxpayer of \$2.30. For every million dollars in the General Fund that you want to generate in revenue, you need to increase taxes by \$1.80 for the average taxpayer.

The Police District Property Tax Levy is more substantial. We are raising more in property taxes to support the Police District Fund. We raise \$439.5 million in property taxes to run our Police District. A 1% increase in Police District taxes gives you \$4.4 million in revenue and has an impact of \$9.80 on the average taxpayer. To generate revenue of a million dollars in the Police District, you would increase the average taxpayer's tax bill by \$2.23. Robert and I are here if any of you have questions.

**CHAIRMAN MONTANO:**

Thank you, Gail. Just a couple of questions, and I don't know if there are any questions from any of the members of the committee. One of the issues that you mentioned was the impact of the New York State budget on the County. Have you had an opportunity to look at the Governor's proposed budget and its possible implications on the County this year?

**MS. VIZZINI:**

My staff is looking at that now. Some of the concerns have to do with those areas where the State has been paying half the costs for juvenile detention and now the Governor is proposing that the Counties absorb 100% of those costs.

**CHAIRMAN MONTANO:**

What does that translate into dollars, do you know?

**MS. VIZZINI:**

We haven't done an independent assessment, but the Budget Office does have a projection on that somewhere in the neighborhood of \$10 million.

**CHAIRMAN MONTANO:**

Ten million dollars less.

**MS. VIZZINI:**

Not to the Juvenile Detention --

**CHAIRMAN MONTANO:**

Right.

**MS. VIZZINI:**

-- but in total. But that is something that we're still looking at.

**CHAIRMAN MONTANO:**

So ten million in total and this is a component of that ten million. Is there anyone back there that --

**MS. VIZZINI:**

Yeah, Mr. Kovesdy is giving me the nod, but yes that's --

**CHAIRMAN MONTANO:**

The nod?

**MS. VIZZINI:**

Yeah.

**CHAIRMAN MONTANO:**

All right.

**MS. VIZZINI:**

It is fluid. You know, we don't know what's going to stick in the budget, but we need to be prepared.

**CHAIRMAN MONTANO:**

All right, let me ask you a question. You talked about the available one-shots such as securitize the tobacco settlement revenue, you said that we get approximately twenty million annually, we don't know what the discount rate would be. How long before this analysis -- how long is it going to take to come up with this analysis?

**MS. VIZZINI:**

Well, I have it as a priority assignment, Chairman Montano, so I would say two or three weeks.

**CHAIRMAN MONTANO:**

Okay. All right, I don't have any questions, any further questions because we've been somewhat discussing this. Any members of the panel? Legislator Kennedy.

**LEG. KENNEDY:**

Thank you, Mr. Chair. And thank you, by the way, for inviting BRO to give this presentation. Gail, I just have a couple of questions as far as the analysis and where you laid it out.

I'm most interested in this 5% or \$1 million deviation and what the obligation is then to go ahead and to notice or advise us by form of letter. When does that come about, when does that first kick in? In other words, we're in the end of February, we have had receipt of sales tax checks to date or other streams of revenue, where is that comporting with what we adopted for the '08 Operating as opposed to what we actually have on-board in-house?

**MS. VIZZINI:**

It's very early in the year, Legislator Kennedy. And we've only had one sales tax check that pertains to the 2008 calendar year; it was not good. But we do not want to project all of 2008 based on one sales tax check. As a matter of fact, Mr. Kovesdy is going to make a brief presentation in regards to where we are with sales tax by way of getting back to the committee's questions from the -- an earlier meeting.

**LEG. KENNEDY:**

Well, I respect the need for being prudent. Nevertheless I'm going to ask you, if you can, not good what? Not good, maybe 10% under, not good 1% under, do we have any idea?

**MS. VIZZINI:**

Yeah, we do. But -- and Robert can give you the specifics, but I just want to caution -- I want to say one thing, which is in light of the economy, if we are off with sales tax which we collect to the tune of over a billion dollars, if we are off by 1%, that's \$10 million. Both Budget Offices in our first meeting agreed that it is plausible that rather than the 2.25% that we have included in the budget, sales tax could slow and we could receive less. It could be that 1%, this could be the year that we come in at 1.25 instead of 2.25, but it's still a little early to tell. But I'll defer to Robert on the

specifics.

**LEG. KENNEDY:**

Which I want to go down this line just a little bit further. When can we expect receipt of the next sales tax check then?

**MR. LIPP:**

So far we've received money through February. It's a State-run system, and most of the money that we received in February was accrued back to last year. So we get two checks in February and actually like one and a third of the checks went back to the previous year and just a piece of one of the checks stays in this year. One of the problems is it's -- they don't -- they just give us a fraction of what the State collects overall and they don't reconcile what is really Suffolk's until the end of the quarter and that's in April.

So the prudent thing would be to wait till April, but of course we want the information immediately, if not sooner, and we need to do a budget projection on that. That being said, it was negative, the growth, over the -- you know, for this piece that we're booking for January. So the bad news is we're starting the year out slow, that's not good. The good news is we did budget, at least at the time what seemed like a conservative growth rate, two and a quarter percent in the budget overall, more like 2.17, 18 for the General Fund after you take into consideration what the actual numbers are for '07.

So what's my point? My point is it's increasingly looking worse, consumer spending, there's no doubt about that. It appeared that we budgeted a conservative amount at the time, but now it doesn't look all that great. To wet your appetite, we're talking, you know, perhaps a 1% swing going from the 2.17 or 8 down to 1.17 or 8, perhaps \$11 million. That is not a projection rather, but just to give you a feel for what is a plausible scenario at this point. We are, you know, in the process, like Gail said, crunching the numbers. We have, among other things, for the sales component an econometric model, blah, blah, blah.

**LEG. KENNEDY:**

That's some of the other areas, I guess, that I have as far as questions goes. You know, I guess I should be more conversant in the vernacular, but when you talk about the duality of the two offices in this budget model, there are some differences you've alluded to. But do you have fundamental agreement like on definition? I mean, do both sides agree to what revenue is or expenditure or capital or operating or things like that? How different do we get when we look at trying to reconcile?

**MS. VIZZINI:**

Well, we've only met once and, quite frankly, they're waiting for us to get where they are. We have agreed in concept that the economy is a factor, sales tax is a potential concern, property taxes, as experienced in '07, were less than what was budgeted and will probably be the case in 2008. The State budget is a concern, but it's not adopted yet. That second meeting, once we have a figure to match their figure, then we can get a little bit more specific with them in terms of, you know, what did you assume -- what did you assume that we would end '07 with?

You know, we've talked about reasonable assumptions like growth and health insurance and contracts, all of that percentage-wise, methodology wise, we agree. So then it boils down to what have you taken into consideration? Worst case versus plausible case and we will probably come up with a range depending on certain factors, but we really need to get our own independent number and to sit and meet with them at least one more time.

**LEG. KENNEDY:**

Can you give me an idea, then, when you anticipate that may be occurring; are we talking about in another--

**MS. VIZZINI:**

Yeah, we're going to do another presentation March 11th, so it has to occur before that.

**LEG. KENNEDY:**

So you'll have some kind of -- some sense of either you've agreed or there are areas where you just don't have agreement.

**MS. VIZZINI:**

Correct.

**LEG. KENNEDY:**

Okay.

**MS. VIZZINI:**

Yeah, but more than likely we will -- there will be a lot of areas where we do agree and you'll be presented with a worse case and a plausible case.

**LEG. KENNEDY:**

Sales tax is our major stream of revenue. There are other areas or categories of revenue that we receive, though. Do you have any sense in them? I mean, areas of State aide, OTB revenues, anything like that? Do we have any sense where the rest of the picture is or is sales tax just so large it pretty much occupies the whole area?

**MR. LIPP:**

Well, some of the problem areas are obviously the sales tax, what we just spoke to, and another area is property tax delinquencies. Because the General Fund makes all other municipalities whole including the schools, the towns, including our own Police District.

**LEG. KENNEDY:**

That would be by the Suffolk County Tax Act.

**MR. LIPP:**

Yes. So there is, you know, a problem there and there's nothing in the budget for '08 to address the possibility of delinquencies and it would appear that there will be delinquencies.

**LEG. KENNEDY:**

But we do a DTAN every year.

**MR. LIPP:**

No, that's something different. What we're talking -- the DTAN is Delinquent Tax Anticipation Notes, we do that every year for cash flow purposes. What we're talking about is what is literally budgeted in the General Fund for property taxes. So if we're budgeting less because we're making other taxing jurisdictions whole, then we -- that is if we collect less, then other things being equal it would be a deficit there.

**LEG. KENNEDY:**

But that also goes to one of the items that you offer as far a possible area of revenue to factor or finance some of those delinquencies.

**MR. LIPP:**

Well, that's a pretty long-winded discussion about the tax lien sales that are --

**LEG. KENNEDY:**

Which I don't choose to get into.

**MR. LIPP:**

-- that is -- yeah.

**LEG. KENNEDY:**

But there is a connection between the two.

**MR. LIPP:**

I -- yeah, but I'd go off onto all sorts of crazy tangents; unless you want to be specific, I'll punt on that one for now.

**LEG. KENNEDY:**

No, I'll take a pass. I'll yield, as a matter of fact, to the Chair.

**CHAIRMAN MONTANO:**

Legislator Romaine.

**LEG. ROMAINE:**

Yes, just a couple of questions, if I may. Approximately what was the size of the surplus that we ended with for 2007 for the operating year, the Operating Budget surplus?

**CHAIRMAN MONTANO:**

The fund balance?

**LEG. ROMAINE:**

Yes.

**MS. VIZZINI:**

Well, the 2008 budget assumed a \$125 million surplus in '07 going into '08.

**LEG. ROMAINE:**

Okay. And today is February 26th, we should have a pretty good idea what that was more or less; did we meet those projections?

**MR. LIPP:**

Well, you know, I hate to be evasive here and I'll try, but here's the bottom line. The outside auditors and Audit and Control is here, too, they could speak to this more specifically. But what they do is they don't really book some of the program account monies and State and Federal aid until well after we are at this present point so that we won't have a complete picture of those things until April at the earliest. But that being said, so therefore what we're seeing is expenditures for program accounts, stuff like that, that are significantly lower than what's in the budget that we know are going to be higher and then there's some State aid also that will come through for that. That being said, and --

**LEG. ROMAINE:**

So we'll know in April is what you're telling me, you don't have a -- you would not want to venture a guess at this time.

**MR. LIPP:**

Well, the guess would be, which will have to be revised, is that we should come in with, at the very least, I would presume, with 125 million, it remains to be seen, though, and we're hoping that we'll have a little bit more cushion than that.

**LEG. ROMAINE:**

Of a surplus, of a fund balance.

**MR. LIPP:**

Correct.

**LEG. ROMAINE:**

Okay.

**MR. LIPP:**

And that's, by the way, for the General Fund only.

**LEG. ROMAINE:**

I'm just going to move through these quickly. I'm not looking for lengthy answers, just specific answers. How much do you suspect we can raise if we securitize the tobacco settlement? That one-shot revenue, how much do you expect that the County could raise from that?

**MS. VIZZINI:**

We haven't done enough to give you an independent answer. In the past we've given -- we provided to the rating agencies --

**LEG. ROMAINE:**

All right, I'll wait till the next committee meeting.

**MS. VIZZINI:**

Okay, good.

**LEG. ROMAINE:**

Okay. Next, securitization of the tax liens. Let me ask you this, suppose we change the Suffolk County Tax Act and we require, as other municipalities do, the sale of all tax liens, okay. What would that do in terms of the revenue picture? We'd still have outstanding revenue from previous years where we would be collecting monies from people who hadn't paid and at that point would be either selling their property or doing something of that nature. But instead of making municipalities whole, suppose we just sold our tax liens; what would that do if we came -- we changed the Suffolk County Tax Act in 2008 and said from this point forward we're going to sell the tax liens.

**CHAIRMAN MONTANO:**

If I may --

**MR. LIPP:**

Well, there has been a proposal out there by Harry Tyson.

**LEG. ROMAINE:**

Right.

**MR. LIPP:**

And based upon his --

**LEG. ROMAINE:**

Right.

**MR. LIPP:**

-- numbers, we did crunch about two years ago some analysis for a cut plan that would only look at commercial --

**LEG. ROMAINE:**

And vacant, that's what we're talking about.

**MR. LIPP:**

Right. And that -- what we determined from that -- and it was just an estimate, it was two years ago, that we could if we extended it 35 years out, which is fairly long, we could up-front perhaps maybe \$30 million. The problem is it's a short-run/long-run time horizon problem, that is you can cash out early, but what it's going to do is effectively they're not doing this for nothing and what they get in return is basically the present value. So therefore, we're going to wind up collecting a lot less in the future, A; and B, there's going to be some fees to do the proposal.

**LEG. ROMAINE:**

I'm not a fan of that, I'm just a fan of selling the liens on commercial and vacant property, period, that's it; No securitization. Let me ask you -- yeah --

**CHAIRMAN MONTANO:**

Yeah, if I may just interject so I'm clear. Because your question indicated that other municipalities are doing this and I'm just curious, how many, if you know, municipalities are actually doing the practice other than what we're doing, securitizing the tax lien? Is that the way I understood the question?

**LEG. ROMAINE:**

The question was, my comment about other municipalities, they don't make -- for example, other Counties don't make other municipalities whole, they simply sell the tax lien and they make it whole after the lien is sold.

**CHAIRMAN MONTANO:**

Right. And what I'm asking is do you know how many counties are doing that; and if so, what percentage of counties in the State and where they would be?

**LEG. ROMAINE:**

Yeah, most of them.

**MS. VIZZINI:**

No, we don't.

**CHAIRMAN MONTANO:**

That's what I don't know.

**LEG. ROMAINE:**

Yeah, most of them.

**MS. VIZZINI:**

That came up at Budget Reform also. It's something that we're going to look into.

**CHAIRMAN MONTANO:**

Okay, thank you.

**LEG. ROMAINE:**

Let me move on very quickly, I don't want to make these long questions. Increasing the energy tax from two to 4%, obviously I have already stated a position on that, I'm opposed to even the current energy tax. But when we do this, as part of this assumption, and I understand that this is accounting functions, I'd like to know the impact, particularly on low income and senior citizen residents. I want to know the social impact of every tax policy that we adopt. If we look only at the money and we ignore what this does to the basic social fabric in Suffolk County, then we don't take a look at the full picture. Because obviously I can tell you now, and when I go in my district, when I walk the mobile home parks, people invite me in and they show me how they've closed off their bedrooms from their kerosene heaters that they have. So I need to know the social impact and that's just a passing comment.

Let me talk about some other things; downsizing the core mission and discontinuing non-core

missions. Well, obviously the sale of the health plan is very, very interesting because there's a reserve fund there. What I'd like to know and I hope -- and I'm sure the Chairman will allow us an opportunity, if that issue comes up, to explore the operations of the health plan. My understanding is that the health plan actually turned a profit for many years and then we stopped having people go out and sign people up for the Suffolk Health Plan. And I'm concerned that there was a deliberate effort to destabilize the profitability of this plan as part of an effort to sell this plan off and not make it profitable, not sign people up, not have people that go to the health centers or social service centers to sign people up, and I'm concerned about how the health care of individuals currently in this plan and who could currently be in the plan in the future will be affected. So I would like to know that. I'm just going through some of these things.

As far as consolidations, I believe one of the core missions of County government is health services; no other level provides that. I would be very concerned for any proposal that would impact health services in this County and I would like to know how that's going to impact those people currently using health services in this County.

Liquidation of sale of assets. You mentioned the Dennison Building, I happen to think that's inspired; I thought it was a good idea when Comptroller Caputo suggested we implode the building. But absent imploding the building, since we decided to renovate it, that may not be a bad idea, and I believe a sale of that building could probably produce somewhere in the neighborhood of 30 to \$35 million on a sale lease-back with a 25 year operation. And it may be worth it for us to do that and then move all current occupants out of that building and move County facilities, County occupants into that building who get State reimbursement, partial or full, for their rent such as Health or Social Services. I think that's a plan worth exploring because that could produce about \$30 million.

And contracting out, obviously I'd like to know the impact on that and the impact on AME workers and County workers and the exact projected savings and the impact on the level of service that the County provides. So those are some of the things that I've tried to spell out that I need more information.

I don't think this Legislature, certainly this committee, myself and the other Legislators that I've spoke to are in any rush to judgment on any quick fixed proposal. We would want to kick it around for a couple of weeks to consider the impacts of all of this because clearly any decisions that we could make of a final nature that would alter the structure of County government or the delivery of those services could be a short-term fix that would create long-term problems. And before I did that, I would want to carefully analyze this, and I think the Chairman would share my concerns on that.

**CHAIRMAN MONTANO:**

Absolutely, I don't think that I'm in a position to rush into anything. Before we make some major decisions like this, I think we have to have full disclosure to the Legislature, put everything on the table and have sufficient opportunity to discuss, analyze, review and question what comes before us; I think anything other than that would be irresponsible on our part.

**LEG. KENNEDY:**

Mr. Chair, I'm just going --

**CHAIRMAN MONTANO:**

I have Legislator -- you want to interject something?

**LEG. KENNEDY:**

Just one more question.

**CHAIRMAN MONTANO:**

Go ahead, because I want to move on to Legislator Browning.

**LEG. KENNEDY:**

Of course, I'll be happy to yield.

**CHAIRMAN MONTANO:**

And I think this was a follow-up question that you had earlier then.

**LEG. KENNEDY:**

It was and, you know, being new to this committee, I guess, I don't understand some of the procedures. So this question I'm actually going to pose to Counsel. I want to go back to, one more time, how this notice component occurs where we have this \$1 million or 5% differentiation from where we're at with the Operating Budget. I guess it's a question about the provisions in the Charter and at one point we may or may not expect that we have this notice and how it occurs.

**CHAIRMAN MONTANO:**

You want me to answer it or Counsel?

**LEG. KENNEDY:**

Yeah, I'm posing it to Counsel.

**CHAIRMAN MONTANO:**

Oh, Gail? Oh, Counsel, go ahead.

**LEG. KENNEDY:**

Either one, I guess, chime in.

**MS. VIZZINI:**

We have not adhered literally to the Charter in terms of where there are differences but, you know, there is definitely a spirit of open communication between the two Budget Offices. So once we make a little further progress and once we identify what Budget Review believes to be the magnitude of the problem and what those component pieces are, if there's still a difference, you certainly would be, as the Charter indicates, entitled to some sort of explanation.

**LEG. KENNEDY:**

I appreciate that, Gail. And certainly, I have all the confidence in the work that you'll do to bring us to that case. I guess I'm expressing some measure of concern as to my responsibility as a member of this committee should this notice occur. So I'll be eager to know one way or the other as soon as possible whether, in fact, we are in this position or not, and hopefully we'll know that by the next meeting.

**CHAIRMAN MONTANO:**

Right. And if I -- just so I'm clear, we don't really get to this issue until you finalize your projection or your model and they finalize their model and then we look at it to see whether or not the deviation kicks in. I mean, while you're in the process of talking, there's still flexibility in terms of, you know, analyzing the data; is that how I -- that's how I understand it; am I correct in that?

**MS. VIZZINI:**

Yes, and typically in the past the verbal presentations and the verbal explanations have been accepted. But if you want something more than that, I don't have a problem.

**CHAIRMAN MONTANO:**

Okay.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN MONTANO:**

Legislator Browning.

**LEG. BROWNING:**

Yeah, you were talking about, you know, our sales tax and, you know, concerns that it's not going to be as good as what it has been. I'm looking at the Police District Tax plus the \$87 million every year from sales tax that goes to the Police District. I'm trying to figure out, you know, if we're not getting the sales tax back, you know, is there a way to shift some of that \$87 million to the General Fund or to our Police District Tax? You know, I'm just thinking out loud and wanting to know if you can explain to me how we can do this.

**MS. VIZZINI:**

Well, the 87 million in '08 that was allocated to the Police District was an all-time high. We progressively are providing the Police District with more and more and more sales tax. A small portion of that is, you know, the small growth in what's allocated to the Countywide town and village districts that is funneled to them through the Police District. I think in total, you know, that's like \$5 million, and as that grows, so does the amount of money funneled through the Police District.

**LEG. BROWNING:**

And the Police District Tax, it's only the five western towns that pay that Police District Tax, correct?

**MS. VIZZINI:**

Correct.

**LEG. BROWNING:**

Right, so.

**MS. VIZZINI:**

Correct.

**LEG. BROWNING:**

Okay.

**MS. VIZZINI:**

It's -- sales tax is a big chunk of revenue to either the Police District or to the General Fund; the more we provide to the Police District the less is available to the General Fund. You would have to substitute that revenue or make expenditure reductions. This Legislature has expressed its concern, and certainly when we adopted the 2008 budget about the need for a police class and the size of that class and that issue was resolved through compromise, but I suspect that that issue will raise itself again. Sometimes the new cop is cheaper than the old cop who retires, but you still have to pay the termination pay and everything else.

So one way would be to what the Budget Offices call allow the Police District Property Tax to free-flow, meaning perhaps property taxes in the Police District should increase more in the neighborhood of four or five or six or more percent -- again, a difficult policy decision -- so that some of that sales tax can then move over to the General Fund.

**LEG. BROWNING:**

Okay, 4%. Okay, thanks.

**CHAIRMAN MONTANO:**

I'm going to recognize -- acknowledge Legislator D'Amaro who's not a member of the committee but has some questions, joined us today.

**LEG. D'AMARO:**

Okay. Thank you, Mr. Chairman. I appreciate being given the opportunity to ask a couple of

questions here today. And to Budget Review, thank you again for your presentation, I'm looking forward to the next meeting when we're going to get more, I guess, detailed information.

Along with the Chair of the committee, I sit on the County Executive's Budget Committee -- Ad Hoc Budget Committee, I guess is what we're calling it -- and he's laid out some interesting figures and I think we're all very anxious to find out if you agree with them, if you don't agree with them. And timing becomes an issue because my understanding, and correct me if I'm wrong, is that the sooner we act in '08, the less we might have as a shortfall in '09. Is that -- as a general proposition. And also, I understand that there are certain events that must occur on some of the proposals that are being floated that we have to get started on pretty quickly if we're going to implement them for '09.

So you had mentioned that the next committee meeting of this committee where you're going to be a little more detailed, at least with respect -- and maybe whether you have your own numbers or a reaction to what County Executive is pointing out with respect to the shortfall, that would be on March 11th, I think you had stated --

**MS. VIZZINI:**

The 11th, correct, yes.

**LEG. D'AMARO:**

-- would be this committee. Now, the -- and even in your Power Point presentation, you know, you did rightfully point out what are the contributing factors to the problem and what is the estimate of the shortfall. Well, I think therein lies everyone's real question and I certainly want to know what you think. But the County Executive has talked about a couple of things and I just want to be sure that we're all on the same page, and he lists, in making up his projected shortfall for '09, non-reoccurring revenue as well as 2008 budget shortfalls that we would have to make up, expenditure increases such as salaries and benefits, things like that and a decrease in the fund balance in '09 from what was in '08. And then offset against that, there are some projected revenue increases that he's also referenced. When you come back on the 11th, are you going to address each of those areas?

**MS. VIZZINI:**

The 11th we're going to address the budget shortfall. We will have numbers on -- or at least our best projection, how we ended '07, shortfalls in '08, an estimate for how we're going to end '08.

As you know, Legislator D'Amaro, the Budget Review Office has been very critical of our reliance on a large fund balance and historically critical of our reliance on sales tax. And, you know, from our perspective, the sun, the moon, the stars and the planets are all lining up --

**LEG. D'AMARO:**

Yep.

**MS. VIZZINI:**

-- and the economy is sliding.

**LEG. D'AMARO:**

And we're seeing that now; when you're too dependent on sales tax and you have a slow down, we get in to this situation.

**MS. VIZZINI:**

Yes, so we've --

**LEG. D'AMARO:**

And I think that's right.

**MS. VIZZINI:**

You know, the alternatives are difficult. For the 11th we're going to focus on the shortfall and the budget model. The options that you allude to -- I was only invited to one budget panel meeting and it was the first I had heard of --

**LEG. D'AMARO:**

Yeah, uh-huh.

**MS. VIZZINI:**

-- you know, the alternatives. So what I've done is I've assigned my staff but, quite frankly, some of the alternatives that are being proposed are a work in progress.

So we are analyzing what we -- you know, what we can. There is some sense of confidentiality in terms of those discussions and what are being considered. Not everything presented here was discussed and not everything --

**CHAIRMAN MONTANO:**

Right.

**MS. VIZZINI:**

-- discussed is public yet. A lot of times when you put together a budget, some of the scenarios, you only hope and pray that they fall on the cutting room floor and no one sees them. So we are going to be looking at -- double checking the numbers on some of those other options as well as looking for other options.

I understand the time sensitivity, so we're working as fast as we can and trying to get some credible numbers. And we'll have it to you as best we can, hopefully before you have to make any decisions and you certainly should not make any decisions without, you know, some reasonable fiscal impact on those options.

**LEG. D'AMARO:**

Right and that's --

**CHAIRMAN MONTANO:**

If I may interject. I just want to be clear, though, that everybody understands, these are -- the meetings that you're alluding to with myself and you on the committee are simply discussions. There have been no final decisions or recommendations that have flowed from any of those discussions, they're simply discussions. And I agree, they should really not be brought on the table until and when there's a proposal that is ready for the public. But again, they're just simply discussions on issues that could wind up on the cutting room floor.

**LEG. D'AMARO:**

Okay. I'm not talking about those ideas that are being discussed presently in that particular effort. What I'm talking about is I want to know as best we can, and I would not want to nor would I make a decision on any legislation this year based on a projected shortfall without knowing where Budget Review stands. And you said you're going to come back on the 11th and talk about the 2008 budget shortfalls, and that's part of the equation, we need to know that going into '09.

But given the fact that we have to know and agree on what the shortfall is going to be, as soon as possible, because if we're going to look at the ideas that are being proposed and evaluate them, we really cannot do that without knowing how bad or not so bad the problem is. The County Executive's Office has -- you know, I sat through two of these meetings and they make the presentation on where they think it's going to land as far as shortfall side of equation, not the remedies. But I don't know, I don't know, is that accurate not accurate? And I'm really looking to Budget Review to tell me.

So the County Executive talks about putting in some kind of legislation, perhaps even at the next

Legislative meeting, which then we will have review and analyze. And certainly, again, my point is how do we analyze anything if we really don't know the extent of the problem. So how long is it going to take us to do the analysis of the non-recurring revenues, the expenditure increases, you know, all the other items? Like what -- give me a target here. What are we looking at? Because in my mind, again, based on what I'm hearing from across the street, is that some of the ideas that we may want to look at are going to take a long period of time to implement.

And also that just, you know, the sooner we make the corrections the more we might be able to lessen the impact in '09. So I'm really trying to get a sense of the timing here, if you can tell me. You know, how long until we get this complete? You know, here's the County Executive's bottom line on the shortfall, here's ours; when do we get to that point?

**MS. VIZZINI:**

Oh, you'll get that March 11th.

**CHAIRMAN MONTANO:**

On March 11th, yeah.

**LEG. D'AMARO:**

Okay, okay.

**MS. VIZZINI:**

You'll get that, yeah.

**LEG. D'AMARO:**

So we'll be able to compare --

**CHAIRMAN MONTANO:**

Right.

**LEG. D'AMARO:**

-- the two budget models, in effect.

**MS. VIZZINI:**

Absolutely, yes.

**LEG. D'AMARO:**

Okay, at the March 11th meeting.

All right, I had a couple of other questions. And I appreciate that and I know it's going to take a tremendous effort, but it is what it is, right?

The other question I had, a couple of other quick things; the revenue-raising capabilities in your presentation as well as the last chart that talks about property taxes as revenue. In the revenue-raising capabilities you say, "The New York State General Municipal Law requires the 2.5% increase in the General Fund to tap the Stabilization Reserve," and you conclude that that's an average taxpayer impact of \$2.30. Well, I've learned after two years, anytime I see "average taxpayer impact", that's my red flag, because then a chart gets produced that says, "Well, you know, that's the average impact, but in the Town of Huntington it's going up 19%." Okay.

So any time I see the word "average taxpayer impact" I have to ask the question, what is the per town impact of that \$2.30 or the 2.5% increase? And I think that is a more or somewhat more relevant number if we're going to consider at all tapping into the Stabilization Reserve Fund because that's the real impact on the people, the taxpayers in the respective towns.

**MS. VIZZINI:**

He's getting that for you.

**LEG. D'AMARO:**

Okay, I appreciate it. And, you know, as a corollary to that, the last property taxes as revenue, you say to raise \$1 million in the Police District, it's an average taxpayer bill of \$2.23. Again, you know, the same question is how does that impact the towns? Because I've learned, you know, I am not going to debate average impacts anymore because, you know, then at the end of the day, after all the votes are taken, we find out the real impact.

**MS. VIZZINI:**

There really is no such person as the average taxpayer for the average taxpayer impact but, you know, even though the town by town property tax impact is no long required, Budget Review will continue to provide that to you. Robert can give that to you, you know, based on the 2008 numbers. If we move in this direction in 2009, the assessed values will change.

**LEG. D'AMARO:**

Right. And I just want to point out -- and again, correct me if I'm wrong -- that, you know, we do the average taxpayer impact because we're governing in Suffolk County. And we don't -- we're not really responsible for how that impact ultimately extrapolates into the towns, it's based on equalization rates and other formulas that are applied, based on tax bills and warrants and it's really not something that we can change, we as a County can change. We can only come up with the average impact and then it gets put through the mill and we come out with a town by town impact. But none of that formula can be changed by us, is that correct?

**MS. VIZZINI:**

Well, certainly not the assessed valuation or the equalization rates.

**LEG. D'AMARO:**

Right.

**MS. VIZZINI:**

Those are -- assessed values are given to us by the towns and the equalization rates are given to us by the State through a level playing field.

**LEG. D'AMARO,**

Right, right. You don't have to give that to me now; if you want to provide it to me, you know, when you have a chance. But I would just be curious to see if I'm going to consider -- and I am not saying I will do this, but if we're even going to talk about the concept of tapping the Tax Stabilization Reserve Fund, I would like to know the impact in the towns and I think we all might like to know that impact in the towns that we represent.

**CHAIRMAN MONTANO:**

Yeah, I would ask you to share that with all the members of the committee.

**MS. VIZZINI:**

Sure.

**LEG. D'AMARO:**

Another -- and I'll be very quick, Mr. Chairman; again I appreciate the time.

**CHAIRMAN MONTANO:**

Sure.

**LEG. D'AMARO:**

The issue of a surplus has come up again. I would assume on March 11th you're going to give us an estimate of where you think we're going to land in '09.

**MS. VIZZINI:**

We have reason to believe that the surplus will be more than the 125 million because of the brief period of time where we were sort of capped by the State where they held our penny sales tax, the County Executive took some extreme measures where really nothing moved forward until that issue was resolved. So, but at the same token, we also have other things that were going on that, you know, revenue -- revenue items like property taxes were not coming in the way they were expected to be. But again, each two week period that goes by, each month that goes by we have more data that will give us a little bit more solid number, but we'll have some projections on '07 for you on the 11th.

**LEG. D'AMARO:**

Right.

**MS. VIZZINI:**

'08 is not likely to end the year unless --

**LEG. D'AMARO:**

I'm sorry, you said you expect '07 to come in higher.

**MS. VIZZINI:**

Yes.

**LEG. D'AMARO:**

Right, okay.

**MS. VIZZINI:**

But not the case for '08.

**LEG. D'AMARO:**

Right.

**MS. VIZZINI:**

For a couple of reasons; we don't have anymore reserve funds left, we have depleted those --

**LEG. D'AMARO:**

Right.

**MS. VIZZINI:**

-- in our efforts to come -- you know, keep our General Fund Property Tax Levy flat and our Police District Property Tax Levy low. There are some other things going on there where, you know, are cautionary remarks that we just can't keep relying on these huge fund balances. The State is not going to bail us out this year by taking over something else, the shoe is on the other foot; they're looking for us to absorb more costs locally on certain things. So these are all the things we're trying to take into consideration.

**LEG. D'AMARO:**

Right. And I know, again, the Chairman has another commission that is looking at the whole surplus issue and it's probably not the best budgeting practice to just take taxpayers money and give it back to them in the form of funding the next year's budget, and he's looking at that.

**MS. VIZZINI:**

It's a one-shot.

**LEG. D'AMARO:**

Well, it's a reoccurring one-shot; how's that?

**MS. VIZZINI:**

The way we do it, yes.

**LEG. D'AMARO:**

Yeah. But anyway, the point I want to make or ask you is the surplus turned over into the '09 budget is probably going to come in lower than what we turned into the '08 budget; correct?

**MS. VIZZINI:**

We believe so.

**LEG. D'AMARO:**

Okay. And we've heard one side of that and I'll wait until the 11th, you know, to see where you land with that and I think we all want to know that, but just a more general question about the surplus. I'm trying to find another word other than surplus to describe it, because in my mind it's not a true surplus.

**MS. VIZZINI:**

It's a fund balance.

**LEG. D'AMARO:**

It's a fund balance. In other words, surplus in the sense that we have more money than we need or need to spend in a budget, is a difficult concept. That's what surplus means to me, because really we are spending those funds which are taxpayer funds in the following year's budget. So my question is if we treat it as a real surplus -- and let's give it back to the taxpayers, I'd be the first one to say let's do that; I have no problem giving back taxpayers money if we're not using it -- what would be impact?

**MS. VIZZINI:**

Well, we actually do that.

**LEG. D'AMARO:**

I agree with you, but in a different -- we do that by funding the following year's budget.

**MS. VIZZINI:**

Well, we do that by reducing the amount of taxes we would have to levy.

**LEG. D'AMARO:**

Correct, I agree with you. But what if whatever number you decide, along with the County Executive's Office, on fund balance, what if we wrote a check to each taxpayer and gave it back them, what happens?

**MS. VIZZINI:**

Let's say it's \$100 million.

**LEG. D'AMARO:**

Yeah.

**MS. VIZZINI:**

You've just robbed from 2009 a revenue source of a hundred million in dollars.

**LEG. D'AMARO:**

So we'd say, "Send back the checks."

**MS. VIZZINI:**

So you would have to -- you would have to reduce expenditures by \$100 million --

**LEG. D'AMARO:**

Right.

**MS. VIZZINI:**

-- or come up with \$100 million --

**CHAIRMAN MONTANO:**

In revenue.

**MS. VIZZINI:**

-- in other revenue.

**LEG. D'AMARO:**

So is it fair to call that really a taxpayer fund balance? It's really taxpayer money that we're turning over into the next year.

**MS. VIZZINI:**

It may not -- well --

**LEG. D'AMARO:**

It's not money that we can write a check for and send back to taxpayers, otherwise we'd have to just raise their taxes or reduce revenue, reduce expenditures.

**MS. VIZZINI:**

The accounting term is fund balance.

**LEG. D'AMARO:**

Okay.

**CHAIRMAN MONTANO:**

If I may. Legislator, I think these are issues that were taken up in the other commission, probably not so much for what we're going to be dealing with in terms of dollars and cents in the model that she's going to present next week.

**LEG. D'AMARO:**

Mr. Chair, I agree with you. And I'll --

**CHAIRMAN MONTANO:**

Okay.

**LEG. D'AMARO:**

I just --

**CHAIRMAN MONTANO:**

I just want to move along.

**LEG. D'AMARO:**

Yeah, one more question. The health plan, which is a one-shot for this year; do we know -- do other Counties in the State of New York have a health plan, have they sold them; do we have any idea of that? Is anyone else in this business, any other County?

**MS. VIZZINI:**

If any other County has an HMO?

**LEG. D'AMARO:**

Yeah.

**MS. VIZZINI:**

I don't really know. I don't know if the Budget Office can offer anything on that.

**MS. CORSO:**

No.

**MS. VIZZINI:**

Oh.

**MS. CORSO:**

No other County in the state owns --

**CHAIRMAN MONTANO:**

Can't hear you. And if you're going to come forward, please speak on the record. Why don't you -- why don't we take this up -- Connie? Why don't we take this up when we go, if we go into executive session.

**LEG. D'AMARO:**

Well, just the one question I have is does another County have a health plan?

**CHAIRMAN MONTANO:**

I think the answer was no, not that she's aware of.

**LEG. D'AMARO:**

Oh, the answer's no?

**MS. CORSO:**

No.

**LEG. D'AMARO:**

Okay.

**CHAIRMAN MONTANO:**

And we can follow-up with that later.

**LEG. D'AMARO:**

Right, yeah, I don't want to get into that.

Okay. I look forward to March 11th. I appreciate, Mr. Chairman, the opportunity to ask my questions, and certainly to Budget Review and Ms. Vizzini, thank you.

**CHAIRMAN MONTANO:**

You're quite welcome.

**MS. VIZZINI:**

The -- Mr. Chairman, if I may?

**CHAIRMAN MONTANO:**

Yes, you may.

**MS. VIZZINI:**

The town by town impact of raising General Fund property taxes by 2.25%, Linda Bay will make copies for each of you, it's got all the towns on it.

**LEG. D'AMARO:**

Thank you.

**CHAIRMAN MONTANO:**

Okay. Legislator Kennedy, I think you had another follow-up question before we get into the agenda.

**LEG. KENNEDY:**

Yes, and I'll make it very quick.

**CHAIRMAN MONTANO:**

Briefly.

**LEG. KENNEDY:**

It goes to something that Legislator D'Amaro just spoke about with the impact of the assessed valuation, and it's a request, I guess, that I would make to BRO.

First of all, I compliment him for bringing that up because clearly how that gross tax spreads out is something that's haunted many people for many years. And we're in a bit of an aberration now in that we have declining property values. So my question to BRO would be not only how this impact goes town by town, but what impact we have with the equalization rate and the year in which the property sales rate is tagged against. This year is somewhat different than what we've experienced over the last several decades. So I'm just curious if there's something -- how that factor will play in.

**MR. LIPP:**

Well, we apportion our General Fund property tax based upon each town's share of the full equalized value of properties, which takes the assessed value and equalizes it across towns by the State determined equalization rate. There's about a year lag, year-and-a-half lag and depending upon the year, let's say a year, they're pretty fast these days in doing that, number one.

Number two, the assessment rolls are closer to real-time. So what we've observed, for instance, for the current year's property taxes is much slower growth, especially in the west end. And as a result, there's been an increasing share going to the five eastern ten towns as a general rule.

**LEG. KENNEDY:**

Are you provided with any information about the grievance rates as well, and how it factors in? Because we have that adjustment process back and forth with successful grievances.

**MR. LIPP:**

Right. What we do see are the levels of what's referred to on the tax rolls erroneous assessments which is a combination of homeowners, I guess, grieving their taxes and also tax certiori proceedings by non-residential property owners. And that's very lumpy, too, so in other words, you could have a business doing a tax certiori and it not coming through for several years. We did observe a significant uptick in that particular action for this current year as property tax warrant and the way it works is if you get your taxes lowered, grievances or tax cert's, it gets -- it winds up the money has to be put on the next year's tax warrant. So other things being equal, if property taxes from all municipalities, schools, towns, County were flat every year, in the current period we would observe an increase in property taxes because of having to put or re-levy perhaps, if you will, those taxes in the next year. And, of course, during good times, that action would go down and taxes and other things being equal would go down. So that -- it's sort of a double whammy, if you will, you know, of property values going down to some extent and on top of that, because of the increased delinquencies, we need to raise more to take into account what happened in the previous year.

**LEG. KENNEDY:**

Okay, thank you.

**CHAIRMAN MONTANO:**

All right, I'm going to move on the agenda. I thank everyone for the questions, I think was very interesting.

I just want to point out that on March 11th, so everyone's clear, we're going to have a joint presentation from BRO and from Connie Corso over at the County Exec's Office and then we'll take up the discussion.

We're going to go into public portion, Debra Alloncius; Debbie from AME on bill 20 -- 1027.

**MS. ALLONCIUS:**

Good morning, Chairman Montano and members of committee, and sit-ins, Mr. D'Amaro. I'm here to discuss the Agency Oversight Report and to read into the record, again, what we had presented back in October.

I thank you again for allowing me, on behalf of Cheryl Felice, President of Suffolk County Association of Municipal Employees, this opportunity to testify before you today regarding the proposed 2008 Operating Budget.

For the past five years, I have taken advantage of this forum to offer the Legislative body my observations, thoughts, ideas and various recommendations on behalf of the nearly 7,000 AME members who are Suffolk's finest employees. I am pleased that our thoughts were met with a favorable amount of agreement and support. This year I'm going to forgo the enumeration of where we would like to see expansion on the Operating Budget, I'm going to concentrate on two issues, staffing and workloads. These issues effect our membership and the residents of our County directly and deeply. At the same time, they're creating a situation that is becoming more and more intolerable each day. Suffolk employees can no longer do more with less, despite their best efforts and willingness to shoulder the burdens that have been placed upon them. At last night's General Meeting, we kicked off our campaign of "No More Doing More With Less"; it's intolerable, our workers are suffering.

Today I'm here as a supplicant on behalf of the AME membership and our citizenry, sincere and from the heart. To that end, AME has cause for concern. There are intolerable conditions in many of our departments. Without an increase in staffing, my members can no longer provide the services that the 1.5 million residents deserve, they can no longer do more with less.

As the County Exec has told us more then once, budget surpluses often receive high grades from bonding agencies. Last year I said to this body, "It's honorable to be fiscally conservative as long as it doesn't result in service reductions to those in our population that so desperately need these services." These services are a major reason for yesterday's headline in Newsday regarding the three young children who are no longer with us.

A budget is more than just a set of numbers. We must not lose sight of the fact that it is the function of government to provide services to its citizens and doing that we may not turn a profit. Suffolk cannot become more concerned with ratings and surpluses than we are with the welfare of our recipients and our residents.

It is commendable for the Legislature to peer deep into this budget to examine each department. As you sit here and agonizingly just went over the budget model, we are totally understanding of the different areas of which you may make up surpluses, but contracting out and cutting employees off the payroll are not going to work, not this time around.

For the last three years, every ounce has been squeezed out of turnover savings from all agencies. In a March memorandum to the Chairman of the Budget & Fiance Committee, your Director of the Budget Review Office said, "Staffing is a major expenditure component of the County's Operating Budget, but permanent salaries surpluses alone should not be interpreted as the sole source of

determining budget surpluses." Not filling vacancies results in greater budget surpluses, which result in higher bond ratings. However, this is being achieved at the expense of provided needed and, in some cases, lifesaving services to your constituents. To bear in mind, the 911 Call Center; totally lifesaving services.

I'm here today hoping to convince you that all employees and all agencies are suffering from staffing shortages of major proportion.

In a March '07 memorandum from the BRO, Ms. Vizzini, the Director, points out that the County has 1,297 vacant positions; This is a vacancy rate of 10.8%. Alarming, the vacant positions are spread throughout all our operating agencies and our members can no longer do more with less. Health Services has an astounding vacancy rate of 13.6%. This high percentage of unfilled positions still exists even after this administration, in the last three years, has paired down and inexplicably eliminated hundreds of vacancies from all departments. It's pretty evident why those vacancies in the Health Department exist today, it's been pairing down to be gotten rid of for a long time.

**CHAIRMAN MONTANO:**

Debbie, I'm going to have to ask you to wrap up. And I would like to take this up at the next meeting, but just because of the rules, I'll ask you to wrap up.

**MS. ALLONCIUS:**

Okay. All I am saying is that we can't do more with less. We need the positions filled. We don't need them to go into a surplus every year that binds you to have another surplus the year after. We really would like you to get the Agency Oversight Report, it will show you what the workers are doing. It's not going to show you -- with the vacant positions you have, there was a reason we had asked for the report. We will gladly sit with any one of you and explain over and over again why you need that report and why that information you're not getting is really causing a harmful factor.

**CHAIRMAN MONTANO:**

Okay. I just want to point out, we're going to have to table that today for public hearing so you need to come back to the General Session and make your points again.

**MS. ALLONCIUS:**

I know. And on AME's behalf, we figure that we need to beat a dead horse.

**CHAIRMAN MONTANO:**

You got it.

**MS. ALLONCIUS:**

Thank you.

**CHAIRMAN MONTANO:**

Thank you, Debbie.

**LEG. ROMAINE:**

Quick comment for the speaker.

**CHAIRMAN MONTANO:**

Go ahead.

**LEG. ROMAINE:**

Debbie, I would strongly suggest that the President of your association contact the budget officials in the current administration. Because if I heard things correctly, obviously some of the solutions that are going to be proposed may severely impact current County workers in a reduction, a sever reduction in force and that's something that you may want to have some early discussions on to look at other options with the current administration before they present it to this Legislature.

**MS. ALLONCIUS:**

Absolutely.

**LEG. ROMAINE:**

Thank you.

**MS. ALLONCIUS:**

Thank you, Mr. Romaine.

**CHAIRMAN MONTANO:**

Yes. All right, thank you, Debbie. Allen Kovesdy, from the County Exec's Budget Office; Allen, I think you had some projections on the sales tax?

**MR. KOVESDY:**

Good morning. As you had asked, on a quarterly basis we try to advise you on the sales tax. As Robert had said, we got the last number for 2007, so we prepared a chart for you showing the actuals that Suffolk County got over the last ten years, eleven years, and happily we were \$750,000 total of all funds over the estimate, we came in at 3.19%. And both the Legislature and the Exec did a very good job in projecting the numbers for last year, as the chart shows.

**CHAIRMAN MONTANO:**

So this is a final figure?

**MR. KOVESDY:**

It's the final figure for two thousand and --

**CHAIRMAN MONTANO:**

Three point one nine?

**MR. KOVESDY:**

One billion-one-seven-seven-five-0-eight-three-fifty-two, 3.19% increase.

**CHAIRMAN MONTANO:**

And we had budgeted 2.75; is that correct?

**MR. KOVESDY:**

When we budgeted we increased the adopted by \$3 million in the estimate for the year and we met that figure by over \$750,000. Originally it was 2.65% in the adopted budget, Sir.

**CHAIRMAN MONTANO:**

I thought it was 2.75, okay.

**MR. KOVESDY:**

The other point is -- just to answer, the first check, we have only received one check this year and that was \$4 million less than the same period for last year, and we're doing no estimate at this time until we get a little bit more numbers, And we'll be more than happy on a quarterly basis to give you an update. But I wanted to give you the history, show how we did compared to Nassau County, our neighbor, and that's basically why I'm here, just to give you this information.

**CHAIRMAN MONTANO:**

Thank you very much, Allen.

**LEG. KENNEDY:**

Mr. Chair? If I --

**CHAIRMAN MONTANO:**

Mr. Kennedy, go ahead.

**LEG. KENNEDY:**

Thank you. Allen, can you define that time period for us with the receipt of that first check, that \$4 million that reflects transactions?

**MR. KOVESDY:**

The same as Robert did, it was for the first three weeks of January.

**LEG. KENNEDY:**

Okay. When do we expect --

**MR. KOVESDY:**

We get two checks a month. We usually get a check in the first week and then in the beginning of the second week, and we would get the second half of January in March and we would get a piece of February's number. So we get that on a monthly basis, but we don't get the adjustment, as Robert pointed out, til the end of April. So there was just one check and we really don't like to make estimations on one check only.

**LEG. KENNEDY:**

How -- are we sufficiently beyond 2007 to have had all the adjustments that will have occurred, to have occurred? Will everything coming forward from now be 2008 money --

**MR. KOVESDY:**

Yes.

**LEGISLATOR KENNEDY:**

-- or is there any adjustment left?

**MR. KOVESDY:**

This is 2007 final number.

**MR. LIPP:**

Yes.

**LEG. KENNEDY:**

Okay.

**CHAIRMAN MONTANO:**

So the answer is yes.

**LEG. KENNEDY:**

Okay, Thank you.

**MR. KOVESDY:**

All right? Thank you.

**CHAIRMAN MONTANO:**

Gail, do you want to contribute to that or leave that as it is?

**MS. VIZZINI:**

We're basically in the ballpark. Our file shows the shortfall slightly less, more in the neighborhood of 2.8 million, but we'll talk with Allen and see what he took into consideration. Check-to-check, we are less.

**CHAIRMAN MONTANO:**

All right, we'll take that up later. I'm going to -- thank you all very much. We're going to go into the resolutions.

**Tabled Resolutions**

First, Tabled Resolution **1004-2008, Repealing Home Energy Nuisance Taxes on Suffolk County residents (Alden)**. I'm going to a motion to table. All in favor? Opposed? Abstention?

**LEG. ROMAINE:**

Opposed.

**CHAIRMAN MONTANO:**

One opposition, Legislator Romaine. Motion carries. **TABLED (VOTE: 3-1-0-1 Opposed: Legislator Romaine, Not present: Legislator Cooper)**.

**IR 1005, Establishing a program to reduce unfair home energy nuisance taxes on Suffolk County residents (Alden)**. I'm going to make a -- same motion, same second. All in favor? Opposed?

**LEG. ROMAINE:**

Opposed.

**CHAIRMAN MONTANO:**

Legislator Romaine is opposed. Motion carries. **TABLED (VOTE: 3-1-0-1 Opposed: Legislator Romaine, Not present: Legislator Cooper)**.

**IR 1027-2008, Adopting Local Law No. -2008, A Charter Law to promote accountability and transparency in government by requiring an Agency Oversight Report (Cooper)**. I'm going to make a motion to table for a public hearing, which is still open. I need a second.

**LEG. KENNEDY:**

Second.

**CHAIRMAN MONTANO:**

All in favor? Opposed? Abstention? Motion carries. **TABLED (VOTE: 4-0-0-1 Not present: Legislator Cooper)**.

**Introductory Resolutions**

**1057-2008, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature #288 (Co. Exec. Levy)** I'll make a motion to approve and place on the Consent Calendar. Second by Legislator Browning. Any discussion? All in favor? Opposed? Abstention? Motion carries. **APPROVED and placed on Consent Calendar (VOTE: 4-0-0-1 Not present: Legislator Cooper)**.

**1059-2008, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature #289 (Co. Exec. Levy)** Same motion, same second, same vote, with your concurrence. **APPROVED and placed on the Consent Calendar (VOTE: 4-0-0-1 Not present: Legislator Cooper)**.

**1060-2008, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature #290 (Co. Exec. Levy)**. I'll ask for the same motion, same second, same vote. **APPROVED and placed on the Consent Calendar (VOTE: 4-0-0-1 Not present: Legislator Cooper)**.

**1063-2008, Authorizing the County Treasurer to borrow cash funds from other County funds for 2008 (Presiding Officer).** I'm going to make a motion to approve. I need a second for the purpose of discussion.

**LEG. BROWNING:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Browning. Could I have an explanation from Counsel with respect to 1063? I know that we've done this in the past, but I did have some questions.

**MR. NOLAN:**

This is my understanding, and Budget Review can confirm, this is something we typically do every year, what the title suggests, which is authorize the County Treasurer to borrow cash funds from other County funds, move money to meet shortfalls; that's what it is.

**CHAIRMAN MONTANO:**

All right. We're -- just so I'm clear, I know we've done this in the past, but these times are maybe a little different. Gail, we're borrowing money from one account to another and we're paying that money back with interest; is that how this works?

**MS. VIZZINI:**

Generally speaking, yes.

**CHAIRMAN MONTANO:**

What were to happen if at the end of the year we borrowed money from one account and we were not able to pay it back, or is that even a possibility?

**MS. VIZZINI:**

I suppose it's a possibility. We usually do a significant borrowing at the end of the fiscal year --

**CHAIRMAN MONTANO:**

So that would cover it.

**MS. VIZZINI:**

-- to give us the cash flow --

**CHAIRMAN MONTANO:**

Oh, okay.

**MS. VIZZINI:**

-- to the tune of over \$275 million. So that's when we make everybody whole --

**CHAIRMAN MONTANO:**

Right.

**MS. VIZZINI:**

-- with the proceeds from that borrowing. This helps us because we don't have to go outside, or it minimizes the amount to which we have to go outside to borrow. If we have money sitting in Assessment Stabilization Reserve or other funds, we borrow from those funds and then pay them back with the proceeds from borrowing, we'll pay them back with interest.

**CHAIRMAN MONTANO:**

Right. Yeah, you know, I just point out, I know I've dealt with some not-for-profits. I think with -- in certain agencies, this would be considered not allowable. But having said that, I'll call for a vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not present: Legislator Cooper).**

**IR 1064-2008, Adopting Local Law No. -2008, A Charter Law to clarify the budget process and restore flexibility in the allocation of sales tax revenue (Presiding Officer Lindsay).** I believe this has to be tabled for a public hearing. I'll make the motion; I need a second.

**LEG. ROMAINE:**  
Second.

**CHAIRMAN MONTANO:**  
All in favor? Opposed? Abstention? Motion carries. **TABLED**  
**(VOTE: 4-0-0-1 Not present: Legislator Cooper).**

**IR 1079-2008, Amending the 2008 Operating Budget and transferring funds for Schem Community Youth Services in the Youth Bureau (Beedenbender).** I'm going to make a motion to table.

**LEG. KENNEDY:**  
Second.

**CHAIRMAN MONTANO:**  
Second on the motion to table, and I'll tell you why. Gail, my understanding is that this is not Omnibus money but this is, in fact, new money?

**MS. VIZZINI:**  
No, all these budget amending resolutions are changes in the Legislator's Omnibus money. In this case in particular, there was -- the predecessor did not allocate all their Omnibus money. The funds were reserved in anticipation of whoever the new Legislator would be.

**CHAIRMAN MONTANO:**  
Oh, so this is an example of parking money?

**MR. ZWIRN:**  
Only because the Legislator --

**MR. NOLAN:**  
We don't like to say that.

**MS. VIZZINI:**  
That has a pejorative --

**CHAIRMAN MONTANO:**  
Well, no, I know we don't like to say it, but is that, in essence, what we did?

**MS. VIZZINI:**  
It has a --

**CHAIRMAN MONTANO:**  
I thought we had a lose-it-or-use it policy; use it or lose it.

**MR. ZWIRN:**  
We had a retiring Legislator.

**MS. VIZZINI:**  
Parking has a pejorative term, but I suppose you could describe it as that. It gives this Legislative District the same level playing field as the others.

**LEG. KENNEDY:**

Mr. Chair?

**CHAIRMAN MONTANO:**

Go ahead, Legislator Kennedy.

**LEG. KENNEDY:**

Yeah, based on that explanation and because I'm directly familiar with the Sachem Community Youth Services, as their catchment area overlaps our Legislative District, I would respectfully request that I withdraw my second to table.

**CHAIRMAN MONTANO:**

I'm going to withdraw my motion also. This is not money from last year, this is money that we allocated in the budget specifically for Omnibus purposes but did not allocate which program it would go into; is that what we're referring to here?

**MS. VIZZINI:**

Legislator Caracappa did not allocate \$40,000 of his Omnibus money, and that money was reserved for whoever the new Legislator would be.

**CHAIRMAN MONTANO:**

All right. Well, that escaped me in the budget, but in light of that I will withdraw the motion. Anyone who wants to make a motion to approve?

**LEG. KENNEDY:**

I'll make the motion.

**CHAIRMAN MONTANO:**

I need a second.

**LEG. BROWNING:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Browning. All in favor? Opposed? I'm opposed. Motion carries. **APPROVED (VOTE: 3-1-0-1 Opposed: Legislator Montano - Not present: Legislator Cooper).**

**IR 1080-2008, Amending the 2008 Operating Budget and transferring funds for Veterans of Foreign Wars Suffolk County Council in Veterans Services (Beedenbender).** I need a motion.

**LEG. BROWNING:**

I'll make a motion.

**CHAIRMAN MONTANO:**

I need a second. I need a second.

**LEG. KENNEDY:**

I'll make the second.

**CHAIRMAN MONTANO:**

All right, second by Legislator Kennedy. And I understand that this is the same situation then?

**MS. VIZZINI:**

Correct.

**CHAIRMAN MONTANO:**

All right. All in favor? Opposed? One -- I'm opposed. Motion carries. **APPROVED (VOTE: 3-1-0-1 Opposed: Legislator Montano - Not present: Legislator Cooper).**

**IR 1083-2008, Amending the 2008 Operating Budget and transferring funds for the Town of Brookhaven for Medford Memorial Park and street lighting (Eddington).** I'll make a motion to approve. I need a second.

**LEG. BROWNING:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Browning. This is the moving of money from one program to another?

**MS. VIZZINI:**

Correct.

**CHAIRMAN MONTANO:**

Within Omnibus.

**MS. VIZZINI:**

Yes.

**CHAIRMAN MONTANO:**

Okay. Any discussion? All in favor? Opposed? Abstention? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not present: Legislator Cooper).**

**IR 1113-2008, Adopting Local Law No. -2008, A Local Law refining Veterans property tax exemption afforded to Cold War Veterans (County Executive).** I'm going to make a motion to table for a public hearing.

**LEG. BROWNING:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Browning. All in favor? Opposed? Abstention? Motion carries. **TABLED (VOTE: 4-0-0-1 Not present: Legislator Cooper).**

**IR 1127-2008, Amending the 2008 Operating Budget and transferring funds for the League of Women Voters in the Youth Bureau (Schneiderman).** Again, this is -- I'll make a motion to approve.

**LEG. BROWNING:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Browning. Gail, this is moving money from one Omnibus item to another; am I correct?

**MS. VIZZINI:**

Correct, from the Montauk Observatory to the League of Women Voters.

**CHAIRMAN MONTANO:**

All in favor? Opposed? Abstention? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not present: Legislator Cooper).**

### Home Rule Messages

Moving on to Home Rule Messages, we have two. **HR 03-2008 - Home Rule Message requesting the New York State Legislature to amend the Tax Law, in relation to authorizing the County of Suffolk to elect to be exempt from certain taxes related to any hybrid fuel efficient, alternative fuel, "Clean Fuel", or electric motor vehicle (Assembly Bill A.1513) (Presiding Officer).** My understanding or my note on this is that there's no Senate companion bill.

**MR. NOLAN:**

Correct.

**CHAIRMAN MONTANO:**

Is that an issue?

**MR. NOLAN:**

No.

**CHAIRMAN MONTANO:**

No, okay. Any discussion on this? I'll make a motion to approve.  
I need a second.

**LEG. ROMAINE:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Romaine. Any discussion? All in favor? Opposed? Abstention? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not present: Legislator Cooper).**

**LEG. ROMAINE:**

Would the Clerk please list me as a cosponsor to that HR 3, and also to 1113-08? Thank you.

**CHAIRMAN MONTANO:**

**HR 04-2008 - Home Rule Message requesting New York State Legislature to amend the Tax Law in relation to authorizing the County of Suffolk to elect to be exempt from certain taxes related to any energy saving, fluorescent light bulb (Assembly Bill A.8875) (Presiding Officer).** Again, there's no Senate companion bill. I'll make a motion to approve.

**LEG. ROMAINE:**

Second.

**CHAIRMAN MONTANO:**

Second by Legislator Romaine. All in favor? Opposed? Abstention? Motion carries. **APPROVED (VOTE: 4-0-0-1 Not present: Legislator Cooper).**

**LEG. ROMAINE:**

Would the Clerk please list me as a cosponsor?

**CHAIRMAN MONTANO:**

All right, We're done with the agenda.

I wanted to get back to the request by Legislator Kennedy to discuss the issue of the sale of the Suffolk Health Plan. As I stated earlier, I had a conference call yesterday with the County Executive and the County Attorney. And I believe the County Attorney is here; Christine Malafi, would you

step forward? Anywhere you'd like, Ms. County Attorney.

Now, yesterday, just to reiterate -- correct me if I'm wrong -- but there were some concerns raised by the Executive Department with respect to discussing this issue in public because of some -- I would say the fear of discussing confidential matters that refer to some of the companies that may bid on that. I've asked the County Attorney if she could let us -- if she could certify to us that we can go into executive session to discuss this, I would be willing to make that motion. Legislator Kennedy, would you like to address anything before she makes her presentation?

**LEG. KENNEDY:**

Mr. Chair, obviously you can see from the letters that I sent to you -- and I appreciate you inviting County Attorney Malafi here to speak with us -- I've got a number of concerns about a variety of the assumptions that went forward with inclusion of the plan, the sale of the plan, even some of the interpretation as to whether or not we as a body were subject to 9-6 of the Administration Code.

That notwithstanding, I'm willing to entertain or listen to how this discussion somehow falls under some of those very narrow exemptions that we have under Public Officer's Law and I remain unconvinced at this point that we fit one of those categories.

**CHAIRMAN MONTANO:**

Well, that's why we're here, That's what we're going to find out. Gail, just for background. My understanding, and I haven't really had a chance to review this again, but we authorized this sale in our budget, did we not? I mean, is that the process we undertook for this, or maybe Counsel can address that.

**MS. VIZZINI:**

Well, we can collaborate on an answer to that. But the budget was put together assuming that the County would proceed --

**CHAIRMAN MONTANO:**

Yes.

**MS. VIZZINI:**

-- with the liquidation of this particular asset and, as such, revenue of \$16 million would go from the Suffolk Health Plan to the General Fund. The Legislature did not make any budgetary changes. But to actually consummate the transaction, you'd have to do this by resolution; you would have to approve the actual sale of this particular asset by resolution. But I'll defer to the County Attorney.

**CHAIRMAN MONTANO:**

Okay. George, you want to answer that?

**MR. NOLAN:**

Gail put it perfectly. The money was in the budget, we put a RESOLVED clause I believe in the Omnibus resolution stating that the eventual sale, if it's proposed, would have to come back to the Legislature for approval.

**CHAIRMAN MONTANO:**

Right, and it has. So they're in -- from what I understand, they're in discussions and negotiations regarding the pending sale, but nothing has been approved by the Legislature.

**MR. NOLAN:**

Correct.

**MS. VIZZINI:**

Correct.

**CHAIRMAN MONTANO:**

Ms. County Attorney, go ahead.

**MS. MALAFI:**

Okay. The Open Meetings Law, to which this committee is subject to, has -- provides for executive session in certain circumstances, executive session is closed to the public. One of the exceptions, and I'm going to read it, it's in -- it's Exception F to the law, it says "you can go into executive session, closed to the public, to discuss the medical, financial, credit or employment history of a particular person or corporation to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation."

The corporations that have responded to the, for lack of a better word right now, RFP, for the potential sale of the health plan have financial information provided to the County in responding to the RFP. So that exemption alone would permit you to go into executive session. However, there's also Exception H to the Open Meetings Law allowing you to go into executive session when the proposed acquisition, sale or lease of real property, the publicity of that proposed sale would substantially effect the value of such property. Now, I know this is not real property --

**CHAIRMAN MONTANO:**

I was going to say.

**MS. MALAFI:**

-- but it is property, it's a very valuable asset, it's probably more valuable than a lot of the property that we own. And we have consultants and an outside legal Counsel who have advised us, as well as the people who have responded to the -- the corporations that have responded to the RFP, that publicity regarding the specifics of the sale before a bid has been potentially accepted or proposed to this body would substantially effect the value of the asset.

**CHAIRMAN MONTANO:**

I understand that, but I guess the question I would have is the way the -- that particular exception is written, how would you -- how do you draw the nexus between real property and something that is other than real property and fit it within that exception?

**MS. MALAFI:**

Well, because Exemption F expressly already applies, I would use the analogy of Exemption H to say that it should apply also.

**CHAIRMAN MONTANO:**

I would disagree with you, but I won't argue with you. The point is that you're maintaining that this subject is an appropriate matter for executive session under two of the enumerated exceptions?

**MS. MALAFI:**

Under one expressly and arguatively (sic) under two, yes.

**CHAIRMAN MONTANO:**

All right. Well, I don't think that I would agree with the second, so why don't we stick to the first; are there any questions with respect to that? I see hands there. I'm going to go with Legislator Kennedy first because it's his letter and I think he got his hand up earlier.

**LEG. KENNEDY:**

Thank you, Mr. Chair. I'll agree that there may be certain categories of what's going on at this point

that might not be subject to public discourse, such as who may have responded in bid process, although the bid itself was let by Purchasing in a public fashion. And if I picked up the phone in Purchasing, I should be able to find out who the individuals were or entities that requested bid packages.

**MS. MALAFI:**

No, because this process was done by the issuance of a -- an inquiry was made as to I think about 12 companies who the consultant, the professional consultant that was hired, Shattuck Hammond, that would potentially be bidders to purchase the health plan. Before any information was given to those bidders, they had to sign a confidential memorandum and then a bid package was given to these people; it was done the regular RFP process.

And in addition, the initial -- the RFP process, even just a normal -- and I've been using the DPW asphalt bid that they send out as an example. Although the bid, the bid package itself is public document, the names of the people who bid on a DPW road project and the contents of their bids are not available to the public until after an award is made. So there is really no difference between this -- what we're trying to keep confidential here as opposed to, like I said, on an asphalt project. The names of the bidders and the actual bids that were received would not be made public until after an award.

**LEG. KENNEDY:**

My objective here is not to go ahead and find out at this point whether, you know, A,B,C,D or E has expressed an interest here. My interest and my concern, quite frankly, goes to what the extent of the negotiation is at this point, how the entity itself is valued. And even if we go into F now, it seems that what you're suggesting is that we can move into executive session by virtue of the fact that we're contemplating discussion not of an individual but a corporation?

**MS. MALAFI:**

It says it right in the statute.

**LEG. KENNEDY:**

Well, but then explain to me, Counselor, so the Suffolk Health Plan is a corporation? I don't know it, I've never seen the incorporation documents; Is that the case?

**MS. MALAFI:**

No, it's the corporations that have responded to the request for interests to purchase the Suffolk Health Plan; it's their confidential items which have to remain confidential.

**CHAIRMAN MONTANO:**

If I may?

**LEG. KENNEDY:**

I'm going to yield to the Chair here, but I'm struggling with that one.

**CHAIRMAN MONTANO:**

Well, you know, I just had a side bar conversation with Counsel with respect to the appropriateness of an exemption falling under F, and I haven't looked at this beforehand, but it's my understanding that F relates more to personnel matters as opposed to the type of situation that we're confronted with here now. And, you know, having done -- having written, you know, briefs on this, the Open Meetings Law, I know that this is something that is strictly construed. If there is to be any error with respect to going into or not going into executive session, I would error on the part of not going in because the purpose of this law is clearly that we have open discussions in governmental bodies. And any challenge to, you know, a move for executive session I think would be successful and would be embarrassing to the County if we made the wrong choice. So my feeling is that F, while it could apply, applies more to an employment situation, I'm not quite sure that this fits into F, and I'm

going to ask Counsel to the Legislature to address my concerns.

**MR. NOLAN:**

Yeah, I -- and I should say I wasn't aware this question was going to be coming up today.

**CHAIRMAN MONTANO:**

My apologies.

**MR. NOLAN:**

But, you know, the County Attorney has outlined good reasons why this particular matter might be discussed in executive session. The problem, I think, is it's a tough fit under the Open Meetings Law, it's not a clean fit that the discussions can be done in executive session.

Certainly, I would like to speak to the County Attorney's Office about this more to see if we -- if some understanding can be reached as to what will be -- can be done in executive session and what will be done in executive session, if anything.

I just think -- and the other thing I should mention is the annotations in McKinney's don't offer very much guidance. I think this is a very unique circumstance, probably --

**MS. MALAFI:**

It's very unique and there's nothing, no opinions on it --

**MR. NOLAN:**

Right, right.

**MS. MALAFI:**

-- or cases on it because no other County owns a health plan much less tried to sell a health plan.

**CHAIRMAN MONTANO:**

And there generally isn't a lot of litigation under this statute.

**MS. MALAFI:**

Correct. But can I --

**CHAIRMAN MONTANO:**

Let me ask Legislator --

**MS. MALAFI:**

Excuse me, can I -- one more thing.

**CHAIRMAN MONTANO:**

Sure, go ahead.

**MS. MALAFI:**

The confidential agreement, the confidentiality agreement that has already been signed by the people who have responded to this request by the County for bids to purchase the plan states that the confidentiality is two ways, that the County will not release their confidential information and we will not -- and they will not release our confidential information, because in order to get these bids in the County had to release confidential information with respect to the health plan to these companies. And so we are -- right now the County is bound by a confidentiality agreement that could subject us to litigation if we do not honor that; that's first.

Second of all, you cannot -- it's my position that you cannot look at the Open Meetings Law without at least considering the Freedom of Information Law. And the Freedom of Information Law permits the denial of access to public documents or records of public documents that if disclosed would

impair present or imminent contract awards. And also, if those documents are submitted by a commercial enterprise or derived from information obtained from a commercial enterprise, which if disclosed would cause substantial injury to the competitive position of the subject enterprise. So if any of these bidders feel that their -- the information that they provided to us is confidential and would harm their business if their competitors found out about the information contained in their proposal to the County, it's not subject to FOIL.

At this point, the consultants that we've hired and the outside Counsel that we've hired who has specific -- specific knowledge and experience in sales of health plans, not municipal health plans but, you know, I think they participated in the sale of a portion of two different insurance companies to each other, health plans, they had advised -- and they're not here because I just found out about this late yesterday afternoon --

**CHAIRMAN MONTANO:**

Right, when we spoke.

**MS. MALAFI:**

-- that I should be here, so I could not have them present here. They have advised that even the names of the companies that have bid at this point would -- if the names of the companies are disclosed, they would harm the business enterprise and the business secrets of those companies and they have told us. And we know from the bidders because they would not submit any bids, we would not have gotten any bids if we did not agree to hold everything confidential.

The agreement that we have with the companies is that at the close of the process, they will have five days to let us know which portions of their response must remain confidential as trademarks in their opinion and that we will consider their arguments made before determining what ultimately will remain confidential even at the close of this process. We have not promised them that everything will remain confidential, but they have to be given, under FOIL, the opportunity to make sure that they have the -- their arguments as to why their business secrets are contained in their responses and why they need to remain confidential.

**CHAIRMAN MONTANO:**

All right. I'm not privy to the confidentiality agreement that you refer to.

**MS. MALAFI:**

Would you like a copy?

**CHAIRMAN MONTANO:**

Yes, I would; that would be, I think, a first start. Let me ask Legislator Kennedy, because we're approaching the noon hour and we've been here two -- for two hours. Legislator Kennedy, what -- where would you like to take this at the moment? Are you -- the questions that you have, I don't know what they are so I don't know if some of them can be addressed in a general fashion without violating any confidentiality or if you'd like to submit written questions to the County Attorney or if we'd like to reconvene in two weeks. And I would ask Counsel at that point to lay out to the committee your position, preferably in writing so that we can -- or we can discuss it and see where we go and then, you know, try and resolve your concerns. If not, I don't know where we go at that point, but it should get interesting.

**LEG. KENNEDY:**

Well, I think it's interesting already, Mr. Chair.

**CHAIRMAN MONTANO:**

That's an understatement.

**LEG. KENNEDY:**

First off, let me say when I voted on the resolution to authorize the County to go ahead and even

contemplate sale and negotiation of this last fall, as a matter of fact, Legislative Counsel made reference to me --

**CHAIRMAN MONTANO:**

Was there a resolution? I want to be clear on that.

**MR. NOLAN:**

I didn't hear you, John.

**CHAIRMAN MONTANO:**

When you say the resolution, which resolution?

**LEG. KENNEDY:**

Did we not last fall --

**LEG. ROMAINE:**

In the budget.

**CHAIRMAN MONTANO:**

In the budget; the RESOLVED clause in the budget, but not by separate resolution.

**MR. NOLAN:**

It was in a resolution. It was in the -- I think the Omnibus resolution had a RESOLVED clause --

**CHAIRMAN MONTANO:**

Okay.

**MR. NOLAN:**

-- that the deal, the eventual sale had to come back here for approval by us.

**LEG. KENNEDY:**

Okay, we're agreed there. But at that point, I had no understanding or -- what I'm hearing today is that despite the fact that I'm concerned as to what, in fact, is being offered by the County for sale, to what extent, in what manner, what the ultimate responsibility of a bidder will be to the 15,000 enrollees in the plan now, to what extent any private entity would maintain a relationship with any of our County health care delivery system is a complete unknown to me.

**MS. MALAFI:**

If you look --

**LEG. KENNEDY:**

One other second. And I'm going to disagree a little bit with what BRO characterized this as well, too. This is ultimately, I believe, a \$16 million revenue source in the '08 budget. But more significantly, I think this is a three to \$4 million condition precedent to access to a \$12 million reserve.

So what we're looking at is some methodology for presenting this unique entity. And by the way, there have been sales of analogous types of plans throughout this State including vision and dental and other types of collaborative and cooperative plans. So I don't view this as unique as it's being presented to us here today.

I'll be happy to go ahead and further refine my questions, but I disagree that we are somehow being forced to be put into executive session, I'm not comfortable with it. And having been a FOIL officer for eight years, I'm not necessarily comfortable that we be in that area either.

**CHAIRMAN MONTANO:**

One way of resolving this, if I may, is to seek an opinion from the committee, I think it's called the Committee on Open Government.

**LEG. ROMAINE:**

Yes, absolutely.

**CHAIRMAN MONTANO:**

And you can seek --

**LEG. KENNEDY:**

Robert Freeman; why not?

**CHAIRMAN MONTANO:**

Rick?

**MR. BRAND:**

I'm not trying to intrude on your meeting --

**CHAIRMAN MONTANO:**

No, we want to hear from the press. Why don't we put this --

**MR. BRAND:**

No, no, no. I guess at some point, and I don't want to take a position, but I think our paper might want to take a position about this issue.

**CHAIRMAN MONTANO:**

Exactly, and that's why I'm saying put it on the record.

**MR. BRAND:**

We have a card for court cases, you know, where we ask the court for time; it's called a Mulvany Card after a former reporter.

**MS. MAHONEY:**

A Mulvany what?

**LEG. ROMAINE:**

Mulvany,

**MR. BRAND:**

Mulvany.

**CHAIRMAN MONTANO:**

Put this on the record.

**MR. BRAND:**

And I'm just saying, at some point we may want to take a position whether this is in a proper source for executive session.

**CHAIRMAN MONTANO:**

I'm going to ask -- actually, in all seriousness, I've been involved in some litigation on this issue also. I would ask that you seek an opinion from the Office on Open Government as to the appropriateness of whether or not this subject matter is appropriate for executive session. I'd like to take this up at the next meeting; Legislator Kennedy, is that agreeable to you?

And also, in the interim, if you were to phrase some questions, maybe that could resolve the issue and we don't have to take it up. Maybe the questions you're asking can be provided by the Executive Branch to you as a Legislator and not violate, you know, the issues that they seek to protect. Whether or not what they seek to protect is appropriate is a separate issue.

**LEG. KENNEDY:**

Well, I'll phrase the query certainly to the Executive's Office, I'll pose them directly to County Attorney Malafi. But I think what I'll also do is go cc to yourself and to BRO.

**CHAIRMAN MONTANO:**

Please do.

**LEG. KENNEDY:**

And I will reserve one concern here, Mr. Chair. Certainly I'll yield for two weeks, that's always reasonable and we do that as a matter of comity.

**CHAIRMAN MONTANO:**

As courtesy.

**LEG. KENNEDY:**

However, that would be two long weeks that will elapse in the sales process that none of us know anything about at this point.

**CHAIRMAN MONTANO:**

Right, but it --

**LEG. KENNEDY:**

And at what point are we going to be presented with what sounds like an extremely complicated matter and deal and told we must adopt or forfeit 16 million.

**CHAIRMAN MONTANO:**

Well, here's the issue. No, and you are absolutely right. I think that, number one, whatever stage of the negotiations they're at, nothing can be finalized without our agreement. And if we're presented with something that -- you know, as you said, we seem to get presented with things that need to be done right away and then we're given very little time to analyze, review, scrutinize. And I say very clearly that if you have questions with respect to this that we should not move forward and agree to something simply to meet a time constraint and I will go along with you on that. Legislator Romaine.

**LEG. ROMAINE:**

Yes. Very quickly, just listening to the County Attorney and being familiar with FOIL having served as 16 years for the County Clerk, I don't believe it rises to that level. It concerns me that we are negotiating in camera without oversight or review or the light of day being shed on it before this Legislature over such an important issue.

And some of the questions I have have less to do with the sale and more to do with the current operation of the HMO; I specifically raised those questions earlier in this committee. I believe that the HMO has been starved of resources with a plan to make it look worse than it is as an opportunity to reach out and grab that 12 to \$16 million reserve fund. I don't believe --

**CHAIRMAN MONTANO:**

I think it's about eleven, but --

**LEG. ROMAINE:**

I don't believe -- and my question, and I will --

**LEG. D'AMARO:**

Come on, Ed, what evidence do you have of that?

**CHAIRMAN MONTANO:**

Hold on.

**LEG. D'AMARO:**

Tell me what you have.

**CHAIRMAN MONTANO:**

Legislator D'Amaro.

**LEG. D'AMARO:**

That's a very serious allegation you're going to make --

**CHAIRMAN MONTANO:**

Legislator D'Amaro, I'll remind you that --

**LEG. D'AMARO:**

-- and it's intentionally misleading. What do you have?

**CHAIRMAN MONTANO:**

You're not a member of the committee, I'll remind you of that. Legislator Romaine, go ahead.

**LEG. ROMAINE:**

Yes, my interest is in seeking information from anecdotal information that I have received regarding the recruitment of members for this HMO.

**CHAIRMAN MONTANO:**

Let me --

**LEG. ROMAINE:**

Specifically I'd like to ask questions, how many people are employed? Let me ask if there is a director currently for the HMO or whether the director of the HMO has been transferred to other duties; can I ask that question?

**CHAIRMAN MONTANO:**

Ed, yes. The fact remains, though, you have made some accusations which I think are serious in nature and I don't think that we're going to have the time to entertain those.

**LEG. ROMAINE:**

I can reduce them to writing, Mr. Chair.

**CHAIRMAN MONTANO:**

I was going to say. You know, if you want to have a hearing on this, we'll do it in the appropriate forum. I don't think it's the appropriate forum today to do this. I will let Ms. Malafi respond to that and we'll see where it goes.

**MS. MALAFI:**

Everything is not being done in secret. There is somebody from your Budget Review Office present at the meetings when responses were, I believe, received and discussed in any way, you have a representative who is there, okay? Nothing is being done in secret.

A general overview of where we stand right now can be given to you. There is absolutely no benefit to the County Executive trying to, I believe as you're putting it, devalue the asset before we sell it; then we're not going to get the top dollar for it. And the County Executive has done nothing but try

to, by this confidentiality agreement and how the plan has been handled, make sure that the County receives, if the sale goes through, top dollar for the plan.

**LEG. ROMAINE:**

Could I ask you --

**CHAIRMAN MONTANO:**

Let her finish.

**MS. MALAFI:**

So if your accusations are true, then what you're saying is that the County Executive is trying to get less for an asset than he could get, which is not true.

**LEG. ROMAINE:**

They're not accusations, they're concerns. Can I ask you if --

**MS. MALAFI:**

No, excuse me. Can I --

**LEG. ROMAINE:**

Yeah.

**MS. MALAFI:**

I'm sorry, I just would like to finish because I would like for you to understand just a couple of things. What I've handed to everyone through -- Linda helped, is a blank redacted confidentiality agreement that was the first piece, not the one from Shattuck Hammond, that was given out and signed by each of the people who responded, or shall I say submitted bids for the purchase of the plan.

And the second document is from Shattuck Hammond, that's the consultant that has been assisting the County in trying to solicit bidders -- buyers for the plan. This Shattuck Hammond letter went out to, I believe, 12 entities telling them that this is the rules that we will play by if you bid on our asset. And then when the people said, "Yes, I would like to bid on it, but we need information from you in order to put together a bid and you need information from us in our bid that we do not want to be made public," that's when the second confidentiality agreement is signed. So I just want you to be aware of what went out.

These are public documents, the two that I handed out, okay. And if you look on page four of the Shattuck Hammond letter and then on page two and three of the confidentiality agreement, you'll see where the information regarding the confidential nature during the process and the bidders rights to show us how they would be harmed by disclosure or anything is put into these letters and the County is bound by these confidentiality agreements.

**CHAIRMAN MONTANO:**

Ms. Malafi, if I may --

**LEG. ROMAINE:**

My question was, was the Executive Director of the HMO transferred to other duties and not replaced?

**MS. MALAFI:**

As far as I know, no one was transferred. And I can also tell you that the sale of the health plan is not expected to impact the operation of the health centers at all. If you look at the documents that I've given you, they specifically state that any bidders would have to continue to utilize the health centers for a period of time.

**LEG. KENNEDY:**

How long?

**MS. MALAFI:**

I don't know off the top of my head. Let me just --

**LEG. KENNEDY:**

What is --

**CHAIRMAN MONTANO:**

Wait, wait, wait.

**LEG. KENNEDY:**

I'm sorry.

**CHAIRMAN MONTANO:**

Let her answer the question, and I don't want to go too far afield.  
I have a question of my own.

**LEG. KENNEDY:**

Okay.

**CHAIRMAN MONTANO:**

Go ahead, Ms. Malafi.

**MS. MALAFI:**

I'm just looking for it, It's in one of the --

**MS. VIZZINI:**

Mr. Chairman?

**CHAIRMAN MONTANO:**

Go ahead, Ms. Vizzini, you can interject.

**MS. VIZZINI:**

Just to qualify what Christine said in terms of Budget Review Office's participation. Mr. Pollert reached out to the Presiding Officer to see if the Legislature would like to be involved in or have a representative at the -- I don't know what to call them, the presentations, and at the request of the Presiding Officer, I had delegated Lance. Even being invited was a conflict for us because very often when we are invited to participate in something, it makes it difficult for it to then be an arms-length transaction for us to critique the process because we're in it.

So what we decided to do was I was going to delegate Lance and then I would -- and I told Mr. Pollert, "We will be there, but I need to," you know, we need to be Budget Review and if asked we need to have the ability to --

**CHAIRMAN MONTANO:**

To have the freedom to --

**MS. VIZZINI:**

-- critique even though we're there.

**CHAIRMAN MONTANO:**

Exactly.

**MS. VIZZINI:**

And then we did receive one of these confidentiality agreements and in looking at it literally, it even further constricted our ability to be Budget Review, and what I mean by that is to --

**CHAIRMAN MONTANO:**

Advise the Legislature.

**MS. VIZZINI:**

-- critique and educate and advise the Legislature. So I think Lance attended about three presentations and then we have basically -- we're in limbo until the issue of the confidentiality agreement and to what extent this prohibits us from doing what we need to do.

**CHAIRMAN MONTANO:**

Exactly.

**MS. VIZZINI:**

And I know that Legislative Counsel and the County Attorney are discussing this.

**CHAIRMAN MONTANO:**

Right. Let me ask a question, Ms. Malafi. With respect -- a separate issue. With respect to the consultants that are assisting, they're being compensated for their assistance in trying to get you a buyer for this plan; am I correct.

**MS. MALAFI:**

Yes.

**CHAIRMAN MONTANO:**

And how are they being paid? Because my understanding was that the sale of the health center would yield us approximately five million in assets and eleven million in reserves for a total of sixteen million. So how does this company -- what is their agreement and does that cut into -- who's paying the agreement; is it the purchaser, is it the County or are they're taking a commission? And if so, does that impact on the \$16 million that we're supposed to get including, you know, the five million and the reserve?

**MS. MALAFI:**

That I can't answer, I don't know.

**CHAIRMAN MONTANO:**

All right. Would you --

**MS. MALAFI:**

I'm not prepared to answer it now; I can find out.

**CHAIRMAN MONTANO:**

All right, no. And you know, I didn't think I was going to ask it until I saw the document. So I would ask you to, you know, make a note of that and I think that's something that the committee -- you know, I certainly would like to know because that impacts -- anything that impacts the bottom line we'd like to know about because we -- under the budget that we passed, we're anticipating revenues again, reserve and cash of \$16 million, which is a one-shot to plug a hole we had in our budget.

So I'm going to move to adjourn. I think we've covered a lot of ground, you know. I would ask you to look into this issue again, I think Legislator Kennedy is going to pursue it. And for today I think we've covered sufficient ground; am I correct Legislator Kennedy?

**LEG. KENNEDY:**

Again, I appreciate you extending the invitation, I appreciate the County Attorney coming here to discuss this; obviously, I have some differences of opinion. As I said to you, I will consent, I will agree, I will yield for a two week timeframe. I will reduce and try to further refine my questions in writing, but in exchange I'm going to ask that there be no significant commitments on the part of the County Executive's Office with any of these entities for this two week time period. If we're being asked to go ahead and to wait for a further opportunity to discuss what are essential elements or items, I think it's only equally fair that we have the benefit of allowing that two week time period to run.

**CHAIRMAN MONTANO:**

I don't think we can stay the actions of the County Executive. We can rely on their good faith if, in fact, they make a representation that things are not going to move to the point. But again, at the end of the day, this has to come back to us, and I think at that point, if we're not satisfied in any of the information that's transpired leading up to, we should scrutinize very carefully and we may want to go back and relate back to some of the things that happened, confidentiality or not. So that's where we'll leave it. Ms. Malafi, do you feel that, you know, you can respond to Legislator Kennedy's request about, you know, not moving as quickly or maybe staying some of your important decisions for this two week period?

**MS. MALAFI:**

I don't believe that there's any even remote intention on the County Executive's part to make his decision within the next two weeks, so I don't think that's a problem whatsoever.

**CHAIRMAN MONTANO:**

All right.

**MS. MALAFI:**

The only thing that I will say is that you asked me to write to the Committee on Open Government about the Open Meetings Law; I do not know whether we will have an answer in two weeks, I would be surprised if we did. You've got to give me at least a couple of days to get a letter out.

**CHAIRMAN MONTANO:**

Right. No, I agree.

**MS. MALAFI:**

So if that's -- if you want to wait for that, I don't know if you can do this in two weeks.

**CHAIRMAN MONTANO:**

See, the issue that I have is that we have to vote on whether or not we're going to go into executive session. And I have to be quite frank with you, looking at that law and listening to the conversation, I would be reluctant to entertain moving into executive session. If the committee were to tell us that it were appropriate to go into executive session, then we would certainly -- I mean, I think that's the better way to resolve it if, in fact, it's legal. And if it's not legal or it's not permissible -- and I certainly, reading the statute, as an attorney and as a Legislator, would not be prepared to go into executive session based on what I know right now.

All right, with that, we are adjourned.

*(\*The meeting was adjourned at 12:16 PM\*)*