BUDGET & FINANCE COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

MINUTES

A meeting of the Budget & Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on Tuesday, June 15, 2010.

Members Present:
Legislator DuWayne Gregory - Chairman
Legislator Lou D'Amaro - Vice-Chair
Legislator Ed Romaine
Legislator Jay Schneiderman
Legislator Daniel Losquadro
Presiding Office Lindsay - Ex Officio Member

Also In Attendance:
George Nolan - Counsel to the Legislature
Jason Richberg - Aide to Legislator Gregory
Renee Ortiz - Chief Deputy Clerk of the Legislature
Gail Vizzini - Director Budget Review Office
Robert Lipp - Deputy Director - Budget Review Office
Linda Bay - Aide to Minority Caucus
Paul Perillie - Aide to Majority Caucus
Ben Zwirn - County Executive's Office
Allen Kovesdy - Deputy Director - County Executive's Budget Office
Catherine Stark - Aide to Legislator Schneiderman
Justin Littell - Aide to Legislator D'Amaro
Dot Kerrigan - AME
All Other Interested Parties

Minutes Taken By:
Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:15 A.M.*)

CHAIRMAN GREGORY:
Okay. We will start the Budget and Finance Committee with the Pledge of Allegiance led by our esteemed colleague from the East End, Jay Schneiderman.

SALUTATION

Okay. We do not have any cards for the public portion. Is there anyone in the audience that would like to make a statement? Okay. Not seeing anybody, we will go the agenda.

TABLED RESOLUTIONS

IR 1176, Adopting Local Law No. -2010, A Charter Law to repeal the Suffolk County Energy Tax via public referendum. (Romaine)

LEG. ROMAINE:
It needs to be tabled, still in public hearing.

CHAIRMAN GREGORY:
I second the motion to table by Legislator Romaine. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0-0-0)**.

1198, Reducing Home Energy Taxes on Suffolk County Residents.(Schneiderman)

LEG. SCHNEIDERMAN:
Motion to table.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Motion to table by Legislator Schneiderman, seconded by Legislator D'Amaro. All those in favor? Opposed? Abstentions?
TABLED (VOTE: 5-0-0-0).

1368, Adopting a Smart Government Plan to address budget shortfalls to prevent property tax increases. (Co. Exec.)

I make a motion to table, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions?

LEG. ROMAINE:
Please list me as a recusal.

CHAIRMAN GREGORY:
TABLED (VOTE: 4-0-0-0-1 - Recusal - Legis. Romaine).

I'm sorry. Did the Administration want to make a statement on any of the resolutions? Pretty pro forma stuff. Okay. I know Ben is not shy. He would have stood up if wanted to.

INTRODUCTORY RESOLUTIONS

1604, To readjust, compromise and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 834-2010). (Co. Exec.)

I make a motion to approve and place on the Consent Calendar.

LEG. LOSQUADRO:
Second.

CHAIRMAN GREGORY:
Seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**

1608, Establishing a Suffolk County Budget Advisory Commission. (Romaine)

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

LEG. LOSQUADRO:
Second for the purpose of discussion.

CHAIRMAN GREGORY:
Motion to approve, seconded by Legislator Losquadro.

LEG. ROMAINE:
Absolutely. This is a resolution that would establish a Suffolk County Budgetary Committee to study revenue and expenditure policy of the County and to make long-term recommendations regarding the financial stability of the government, the overall economic health of Suffolk County. Public policy options referred to in the resolution that should be considered would be the elimination or reductions of programs, functions, personnel, revenue enhancements and other such things.

Obviously, this Budgetary Committee could consider a whole host of things. I understand that the County Executive has his plan, but there's a whole host of other plans that have been discussed regarding Suffolk County, from -- including that of eliminating the County Executive, going with a professional manager, reducing the size of the Legislature, replacing the Legislature with a Board of Supervisors, a whole host of other measures that should be considered and laid on the table.

And the way to do this I think is to set up this Budgetary Advisory Committee that could look at all of these issues, hold hearings and listen to all the other ideas, because the only ideas that we have heard regarding a reduction plan so far are the ideas from the County Executive. And as anyone can tell you, in this society of ours, one idea, one proposal, doesn't cut it. We should hear all the alternatives and have an independent commission weigh out all the alternatives and make some recommendations about long-term policy, or at least spell out what the alternatives are.

I think that would be more helpful to us as a Legislature then to have the own plan, the only plan, some of which has already failed, such as the purchase of a building helps reduce of the deficit. In the short run, I don't see it. But having only one plan out there to look at, I think limits this Legislature. We need more plans, we need more alternatives, and we need to have them spelled out in a rational manner. Not that the Budget Advisory Committee would make decisions, they would simply listen, have public hearings, listen to testimony, solicit ideas and spell out various options for us to consider. I think it's worthwhile. I think listening to only one point of view gives us a distorted picture of where we are, particularly when that point of view controls the information related to budgetary purposes.

CHAIRMAN GREGORY:
So just so that I can get a better understanding, who would this advisory commission report to?

LEG. ROMAINE:
It would report to us. It's our commission. It's an advisory commission to give us advise. In most cases, I would say, as the sponsor, I'd like to see options; I'd like to see what other options are out

there. Specifically this commission would have eight members; it would have someone appointed by the County Executive, people appointed by the Legislature, the County Treasurer, the County Comptroller, and we would each appoint two members each. And they must have five years experience in budgeting, finance and public policy. So we are interested in getting that type of information out there.

CHAIRMAN GREGORY:
But as the Budget and Finance Committee, we can hold our own public hearings.

LEG. ROMAINE:
But we haven't done that. We haven't looked at other options. The only thing that we've done is reacted to the County Executive's plan. And that, in my view, is a failing of this committee. I think that we could be far more proactive. But one of the things is that we have day-to-day activities as Legislators in our district -- and I know that you've been very active in your district, I saw the news article today -- and we have other responsibilities.

We're looking at professionals that we would appoint with five years experience minimum in public budget and finance or public policy to put forward ideas for us to consider alternatives. It doesn't mean that they're going to be adopted. It's simply, "here are the alternatives out there, here is what each one would do for the County." And it's something to take a look at. I think it's something that we seriously should consider. I think the more information the better.

Right now, we have been dealing -- well, every year I'm here, the County Executive has a budget reduction plan, because we seem to have one type of financial problem after another. Usually in March it comes forth. February and March, you can base it on your calendar, the -NOTE world is collapsing. And you know what? Funny this is, reality caught up with fiction. And now the financial world is collapsing. But guess what? I can't believe it was collapsing for the last five years that I was here.

But we do have difficulties. The County Executive has put forward a plan. We have every obligation as Legislators seriously consider that plan. There are parts of that plan, unfortunately, I have to recuse myself from, but other parts I've seriously considered. But then I've said to myself, "What other plans are out there? What other options are out there?" We're not talking about any of them.

CHAIRMAN GREGORY:
Are you finished?

LEG. ROMAINE:
Yes.

(LAUGHTER)

CHAIRMAN GREGORY:
I thought that was a pregnancy pause. I didn't understand. Well, I don't -- I understand where you're coming from. But if you disagree or don't like the direction the committee is going or taking, you know, we could talk and we can certainly, you know, look to address some of those issues, I think, in committee.

LEG. ROMAINE:
I'll just respond by saying I'm not at all displeased with the direction of the committee. But I understand that each of the members of this committee have obligations above and beyond this committee, particularly in their district offices and things of this nature.

I'm looking for some professionals to sit down in a nonpartisan, bipartisan, multi-partisan way and consider other options out there and list all of those options for us. And I think this committee would do an excellent job of vetting those options. Now, that's one way to go.

But if you're telling me that we need to do more work as a committee, that you're prepared to have public hearings, that you're prepared to bring in experts, and put that burden totally on this committee, I'll withdraw my resolution. But if the resolution is for the committee to do the work for us and then for us to consider the options laid out for us and then we can have public hearings so there's something for the public to respond to -- but right now, they've only seen one plan. And there's parts of that plan that many Legislators find distasteful or scratching their heads like, "How do we save money by buying a building," or something of that nature. And we may. But clearly, that's just one plan.

I could put together plans everyday. Whether they have validity or not, I'd rather see a nonpartisan group do that, present it to us, then we can have public hearings on it, because I've got to tell you, we have one plan, and that plan has some -- I'll just for courtesy sake call -- strange components of it that sometimes stretch credibility.

I'm looking for other options. It may be after everything that in the end the county Exec's plan is the best plan. But right now, it's the only plan we've heard. And it's the last plan -- and it doesn't change too much, because I've heard this similar type of plan for the last couple of years. And I'm saying, "God, there has to be other options for this County to consider." Maybe there's not. But that's why I thought an advisory committee who could devote some time to this and then present their findings to this committee so that this committee can go through those options, have public hearings on those options, and maybe come to some Legislative consensus as a committee would be beneficial.

CHAIRMAN GREGORY:
Now I know you are done. I lost my train of thought. You filibustered my mind. I understand where you're coming from. I know -- in all fairness to the County Executive, I know I guess about a month or so ago he sent out a letter requesting our ideas and how to address the budget. I submitted some to him. Is that a plan? No. But certainly, I think he showed a willingness to listen to us. But I agree with you that we should at least balance the scales, if you will, and come up with a plan possibly, if that would make people more comfortable. But certainly we should --

LEG. ROMAINE:
Multiple plans. Choose from a Chinese menu; Column A, B, C, D, whatever or a combination thereof and put together multiple plans. Because quite frankly, we have a little bit from each, because we only have one plan. We need to develop our own plan. We need to take a serious look at this. And we need to do it not only for the immediate, but for the long term future of the County; where are we going, what do we want to do, how do we want to restructure government, what do we want Suffolk County Government to look like?

I have to tell you, 30 years ago, 35 years ago, the State of Connecticut made a decision it would be better off with townships and abolished counties. I mean, when you talk about governments, you want to look at the best model to deliver public services for the taxpayer at the least expensive cost. There's all types of ways. Most counties in the United States don't have County Executives. There's 3500 counties, maybe three or 400 maximum, less than 10%, have County Executives. They hire a professional county manager to run things and let the Legislature deal with policy and report to them. I mean, that's an option. Another thing is to consider a smaller Board of County Commissioners.

CHAIRMAN GREGORY:
Just to cut you off. I think -- you know, you went from a Budget Advisory Commission to what in my mind is what was the Charter Review Commission's purview. So I'm going to yield the mike to the Presiding Officer now, he has a question, and then Legislator D'Amaro.

P.O. LINDSAY:
Not so much a question, but just an observation. First of all, in this discussion, I think something

historic just happened, Ed Romaine ran out of words for a second there, which I didn't think would ever happen. The second observation is I agree with Legislator Romaine, I would welcome any ideas of what to do with this horrendous budget that we're facing.

I mean, I've been on the Operating Budget Working Group for longer than my tenure as Presiding Officer, probably almost my whole time here. And I thought we faced some tough budget issues in the past. This year is just staggering. I honestly don't know what do to. And I don't agree with a lot of the direction that the County Executive is going, but I don't know at this point what to substitute for some of his ideas. So I would welcome a brain trust coming forward with different thoughts on this subject. I don't think that's harmful at all. So I'll be supportive of you resolution.

CHAIRMAN GREGORY:
Legislator D'Amaro, then Legislator Losquadro.

LEG. D'AMARO:
Thank you. I agree with the Chair. I think that if the Legislator wants to make radical changes to how County Government is run, I think there's already a mechanism in place to do that under the Charter Review Commission. We just went through that process. And he held several public hearings and open meetings. And those recommendations may have even been considered. I'm not sure specifically case by case what the Charter Revision Commission was considering. I don't recall that off the top of my head. But certainly anyone was free to go there and make all of those recommendations.

As far as dealing with the budget, we have this committee, we are here to present our ideas. Again, anyone throwing out ideas on how to counterbalance what the County Executive might be proposing is free to do so. Put in the legislation. You know, that would be my recommendation. I don't think we need a commission to tell us how to govern and how to deal with the fiscal crisis. I think that's what we're elected to do. And I think this comes very close in fact to really abdicating our own responsibility on this committee.

It's tough work. It is not an easy thing to do. We're free, if we're looking for new ideas or new direction, we're free to go out and consult with experts or anyone we want to reach out to to have those discussions to propose legislation. But I think ultimately the responsibility has to come back to us. I don't think we need another commission to do the work that the Legislature is already set up to do, especially even this committee is set up to do. I would support the Chair if he wanted to call in any experts to discuss possible ideas and new ways to deal with our budget crisis. And that would be all positive. So I don't really disagree with the concept, and I agree with the Presiding Officer that we need to reach out to some experts, but I don't think we need a commission to do that. I think we can do that right here in this committee.

CHAIRMAN GREGORY:
Legislator Losquadro.

LEG. LOSQUADRO:
Thank you. I really want to agree with the Presiding Officer. I too served on the Operating Budget working Groups for a long time. And while we have come up some very good ideas independent of the County Executive and worked with the County Executive on many of his proposals, you know, we are, you know, limited in the amount of ideas that we can come up with.

I don't consider it an abdication of our power or of our responsibility in any way. You know, the Executive has ideas, we have ideas. The Executive's Budget Office has ideas. Our Budget Review Office has ideas. You know, bringing in somebody, you know, who may have something that we just might not have thought about in a forum that they may feel more comfortable bringing it to us that we have not yet heard, I don't think can hurt the situation at this point. In fact, I don't think anything can hurt the situation at this point. I think, you know, anything is just chicken soup for us at this point. So it might not help, but it certainly won't hurt. So I'm looking forward to getting

some fresh ideas.

LEG. SCHNEIDERMAN:
Just a question to the sponsor only because I don't have the bill in front of me, Legislator Romaine. They're going to hold public hearings, get some public input this group, and is it a short turnaround? Are they going to file a report with us with their ideas in a relatively short amount of time?

LEG. ROMAINE:
The answer is yes. The answer is yes. I would hope that any report should be forthcoming on or before October 1st so that we could deal with whatever recommendations or hold our own hearings as part of the 2011 Budget so we can get some decent ideas about restructuring and things of that nature.

Again, we're looking for professionals. The County Executive is free to appoint, the Legislature is free to appoint, the Treasurer, the Comptroller are free to appoint people with at least five years in public budget or finance and public policy. We're looking for them to get together to vet out ideas, to do the type of in depth research that unfortunately as Legislators we don't often have the time, because we have so many other things from constituents needs right on down to attending committee meetings, etcetera, to spend the type of time that is necessary and to present options. And they will only be options for us to consider, not recommendations.

LEG. SCHNEIDERMAN:
One thing I would consider, because I think you have a one year from the date to file that report, I mean, certainly if there are good ideas, use we could use them sooner.

LEG. ROMAINE:
Absolutely.

LEG. SCHNEIDERMAN:
Maybe make that a six month timeframe. I see you have about $2000 in here in costs. I've served on some of some of these committees, and we get experts and they volunteer their time, they're not reimbursed in any way, and sometimes we don't provide any of the support services from our own staff and then they have to write the report themselves. And that is often -- that happened to me with the Solid Waste Commission. I had some of the best people. You know, yet we put together what must have been a 100 page report that we had to write ourselves because I couldn't get any money to have any staffers provide any service to that committee.

So if we're going to do this, I think we're going to need to do it right with the support of the County in terms of staff, whatever is the appropriate department to work with this committee so that we can get a well put together report and have it in a timely fashion so that we can make our decisions. Ultimately, it would help to have it while we're doing the budget. So I would say by August. Maybe a three-month turnaround rather than a year. At least to get some preliminary ideas.

P.O. LINDSAY:
You know, if this was to move forward, this is a long-term plan. I can't see if this passed, being -- I can't see them having their first meeting until the fall.

LEG. SCHNEIDERMAN:
I just don't want another committee that goes on and on and on.

P.O. LINDSAY:
Well, this isn't going to be something quick.

LEG. SCHNEIDERMAN:
If it's more of a task force and it's got a -- you know, the objective is clear; they're going to give us a report in short window of time, maybe six months is an appropriate window of time, then I'm all

for it.

CHAIRMAN GREGORY:
I would just like to interject for a second. I mean, this is a commission that we can put together through the Legislature, and they would have to need access to information from the County Executive's -- the administration. But there are things that our Budget Review has requested from the administration that they don't get -- they're entitled to. So I think -- I don't know -- I don't think -- I think it would be difficult to get the information. It would be -- you know, it's a good idea, but I think there's some challenges.

LEG. SCHNEIDERMAN:
Is our BRO staff going to be tied up going to these committee meetings and providing information?

CHAIRMAN GREGORY:
I would think so, particularly as we go into the budget cycle.

LEG. SCHNEIDERMAN:
Gail, do you have time to provide information to a committee like this?

MS. VIZZINI:
That's not provided in the legislation. This commission is constituted of outside people. They are precluded from being County employees.

LEG. SCHNEIDERMAN:
Right. But the way it was described by the sponsor, it sounds like they're kind of going through a lot of the County's current practices, so they're going to need some data, a lot of background information, to formulate their policy recommendations. I have to assume that would mean that they need to talk to you and the Budget Office for the County Executive as well.

MS. VIZZINI:
I'm sure the respective Budget Offices would make the time available as within the competing priorities.

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
It's not even close to a short-term project the way I see it, Legislator Schneiderman. And I think you're hitting the nail on the head with respect to the practical implementation of a bill like this. It's all outside individuals, probably don't have a working knowledge of County Government let alone the nuances of County Government like this committee might or the members of the Legislature might.

In addition to that, any recommendations to radically change the way we do business in Suffolk County it's been suggested would probably require referendums at that point, a referendum. So you're looking at a very long-term process. It doesn't provide any relief in the short term. It's not going to provide us with ideas going into the fall on how to deal with yet another very difficult budget season. And I just want to point out that it's been difficult, but this County has managed pretty well so far, in my opinion. You know, we've been doing right by taxpayers, I believe. We've been providing basic core services at the same time and dealing with a fiscal crisis that's unprecedented in the last 80 years. And I think we're coming through so far well, because we're working very diligently in making sure that we get through this.

And sure there's ups and downs with proposals from the County Executive, but that's his job to propose. As it is our job to propose if we so choose to do so. As elected representatives, that's what we're supposed to do. So, you know, the doom and gloom that I'm hearing that, you know, we're at wit's end and we're out of ideas, I think if we just, you know, go back and put our minds to

it, we should be able to get through this yet another year and come up with the right methods in order to avert a fiscal crisis. We've done it in the past and I think we can do it again. I don't think we need a commission that is going to make several recommendations that will probably require a referendum that will maybe give us some solutions to change how we function as a government in three to four years. I don't see the effectiveness. It doesn't -- it's certainly not aimed at the fiscal crisis that we have right now.

CHAIRMAN GREGORY:
Okay. Ben.

MR. ZWIRN:
On behalf of the County Executive, I think we would agree with all the comments that were made here today. We welcome any ideas. I think whether you do it through the committee, as Legislator D'Amaro has suggested, which you have the power to do that. I think the County Executive would rather see it, you know, short term if possible going forward with this year, because as the Presiding Officer has mentioned, this year is staggering. For the last six years, there have been General Fund property tax increases, no layoffs. The County had been pretty intact considering the economic decline which has been remarkable.

But as the Presiding Officer mentioned, this year is unprecedented with pension costs increase, everything going up, revenue from the Federal Government and the State Government not coming forward as it has in the past. So I think we would welcome -- the County Executive has no pride of authorship. If there are ideas that come in from experts of from the Legislature of from the Budget Review Office, they will examine and take seriously any recommendation that comes forward to see if somebody comes up with ideas that they haven't thought of.

The County Executive has put a plan on the table. It will be an amended, it is a work in progress. We're trying to find ways where we can deal with the crisis this year. But again, I mean, I think that every comment that was made up here is on target. We just have to find a way to work together as we have in the past. The County Executive could not done have done those without the Legislators' support, we've worked together to avoid any tax increases.

But if a commission like this -- we would look to hope to get some ideas short term. But again, you also have the power within this committee to have a hearing and to bring experts in and to make the same recommendations. So we're supportive of ideas coming in is what I'm trying to say. So we're not against the legislation. But the sooner we can get some ideas on the table, the better off and the faster we can consider them.

CHAIRMAN GREGORY:
Okay. Madam Clerk, we have a motion to approve. I make a motion to table.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro. Motion to table goes first. You have any further comments? All in favor? Opposed?

LEG. LOSQUADRO:
Opposed.

LEG. ROMAINE:
Opposed.

LEG. SCHNEIDERMAN:
Opposed.

CHAIRMAN GREGORY:
Abstentions? All right. We have three opposed.

LEG. SCHNEIDERMAN:
The one flaw I see is it doesn't move fast enough. Unfortunately, tabling it makes it move even slower. I'd rather see it move forward and then once the committee is formed, we can perhaps ask them to see if they can make some interm recommendations earlier. That might be the best way to handle it.

CHAIRMAN GREGORY:
The legislation calls for a report within a year. I would like to see the committee exercise its full jurisdiction and call in experts. So we will do that.

LEG. D'AMARO:
Just to comment on that. You know, a commission takes us out of the loop, at least at the beginning of the process. These are radical changes to County Government. These are very -- this is a very severe fiscal crisis. This is exactly the wrong time to take us out of the loop, appoint some commission members that are going to go off for a year or six months or eight months and have these esoteric discussions about how do we change things long term, which is not a bad thing. But to take us out of thee loop at that point, I don't think -- I don't think really make any sense. You know, I guess you could say we're free to go to the meetings if we want as Legislators, but I think it should be the other way around. I think anyone who has that expertise should be coming to us and we should be having that discussion here. So I'm going to oppose the legislation.

CHAIRMAN GREGORY:
And I don't oppose. I just had lunch yesterday with an economist going over some oft he issues. So I'm not opposed to bringing anyone to the committee and getting ideas. I think that we should -- you know, for our employees who, you know, the County Executive has threatened to layoff upwards of 750 employees, we need to get ideas sooner rather than later so we can avoid those layoffs.

Again, I'm not necessarily opposed to the idea of the commission, but I certainly think that we should kind of front load the process and the intent of this legislation so that we can get some ideas on the table.

LEG. SCHNEIDERMAN:
If I can comment, because, you know, I think we can have more than one approach, I think if we form this commission, we shouldn't just wash our hands of it and say, okay, now you guys have to come up with the ideas. I think we should bring in experts here. We should throw out our ideas, because we're fairly familiar with the County operations to, you know, BRO to maybe study the fiscal impacts of some of our ideas, whether they make sense or not, we should do all of those things. And if this commission comes up with some good ideas, let's hear it, because -- you know, let's not shut down any ideas. The more right now the better to deal with this crisis. And, you know, maybe through one of the various approaches, somebody will come up with something that shows promise.

CHAIRMAN GREGORY:
Okay. Anybody else? Motion to approve. All in favor? Opposed?

CHAIRMAN GREGORY:
Opposed.

LEG. D'AMARO:
Opposed.

CHAIRMAN GREGORY:
Abstentions? Motion passes. **APPROVED (VOTE:3-2-0-0 - Opposed - Legis. D'Amaro and**

Gregory).

1620, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 340. (Co. Exec.)

I make a motion to approve and place on the Consent Calendar, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1621, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 341. (Co. Exec.)

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**

1628, Amending the 2010 Operating Budget and transferring funds to the Knights of Columbus Our Lady of Rosary Council No. 4428. (D'Amaro)

LEG. LOSQUADRO:
Motion.

LEG. D'AMARO:
Motion.

CHAIRMAN GREGORY:
Motion to approve by Legislator D'Amaro, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-0)**.

1629, Of the Suffolk County Legislature electing a cents per gallon rate of sales and compensating use taxes on motor fuel and diesel fuel, in lieu of the percentage rate of such taxes pursuant to the Authority of Article 29 of the Tax Law of the State of New York. (Muratore)

CHAIRMAN GREGORY:
I make a motion to table for discussion.

LEG. LOSQUADRO:
I'll second that motion. Just on the motion.

CHAIRMAN GREGORY:
Yes.

LEG. LOSQUADRO:
It just seems like every times this comes up, just ironically, it just shows the volatility of the commodity market. It seems like every time this comes up, gas drops back under $3 a gallon. This is sort of Murphy's Law, maybe we should just keep this bill on the table and it will keep fuel prices suppressed. So, you know, the commodities market is by its nature volatile. And even with what their dealing with down on the Gulf Coast right now, that doesn't change the supply and demand model and we still see gas prices reducing because of the reduction and demand. So I don't necessarily think this is the right move for us at this point.

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
I don't necessarily disagree with Legislator Losquadro. This is, I think, the third time we've

considered this, maybe the second or third since I've been here, second. And, you know, if there was ever a time that we were going to do this, this might be the time, because my understanding is right now the -- based on the wholesale price which is not above $3 a gallon. And I don't think there's any revenue coming in from this at this point over the $3 wholesale price. So the budget that we enacted or that we're going to be drafting for next year doesn't rely on this revenue unless I'm mistaken. For 2010, did we rely on revenue above the $3 wholesale price?

MR. LIPP:
Prices were higher in 2010 so there is some -- there would be some fiscal impact that goes into affect this year. As was stated, gas prices are highly volatile. Early in the year, they were higher. In 2008, there would have been a substantial impact because prices were much higher. 2009, there would have been no impact basically, prices were clearly lower. This year, prices overall, especially first half, were higher so there would have been an impact. And the bottom line is because of the volatility from one year to the next, you could have nothing, you could have our estimated impact of three million and change or you could have the 2008 impact, which we estimated at over ten million.

LEG. D'AMARO:
Right. The 2011 impact, you're estimating at 2.64 in the memo or the fiscal impact statement rather that was sent out. 2.64 million, but that's -- if you had to make that projection today where prices are, there wouldn't be any revenue coming from the $3 wholesale price, above the $3 wholesale price.

MR. LIPP:
Right. It may stay flat now, you're correct. So what we did in the fiscal impact is because of the volatility, we took an average of the last three years being '08 where it would have been significant, '09 would have been nothing and this year --

LEG. D'AMARO:
I don't take issue with that. The point I'm trying to make, however, is that if we're not getting revenue from this now and we're going to be crafting a budget for 2011, if there is ever a time to cap the amount collected above the $3 wholesale price, this would be the time. And then, if you think about it, if gas prices take off and go above the $3 a gallon, well, people are experiencing an economic hardship at that point, so perhaps that would provide some relief.

The problem I have with the bill though, and I guess the sponsor would have to answer this or maybe BRO can, I remember from the debate last time that there's an issue as to whether or not those savings would even be passed on to the ultimate consumer at the pump. If it comes off at the wholesale level, it may, in fact, just be -- the price difference may just go into the pocket of the wholesaler or the retailer or however that works as opposed to going to the consumer. So if we're going to pass legislation like this and if we thought it was timely to do this, would we have the authority to somehow say in the legislation that any savings as a result of this bill over $3 a gallon wholesale must be passed on to the consumer? I don't know if we can do that. I would direct that to Counsel. George, I don't know if you know off the top of your head.

MR. NOLAN:
I don't think we can do that.

LEG. D'AMARO:
You don't.

MR. NOLAN:
No.

LEG. D'AMARO:
So there's no guarantee then that this would get passed on to the ultimate consumer. But you know, again, if it were, I think this would be -- it would be timely now, because we're not collecting

revenue from it now. In the future, if the prices go above $3 a gallon, well, it would provide relief to people at the pump.

CHAIRMAN GREGORY:
Legislator Romaine.

LEG. ROMAINE:
Yes. I'm going to take the liberty to ask two unrelated questions but of an economic nature, because I see my good friend Allen is up at the podium. Sales tax consultant, this county has had a sales tax/economic consultant for some time; is that not correct, for many, many years under continuous contract?

MR. KOVESDY:
To answer your question, there's an RFP that went out on June 3rd --

LEG. ROMAINE:
Is that correct? Have we had a sales tax/economic consultant under contract for many years?

MR. KOVESDY:
Yes.

LEG. ROMAINE:
Okay. We haven't had one since January; is that correct?

MR. KOVESDY:
Yes.

LEG. ROMAINE:
Yes. Now, the next question, which we'll get to, you have just done an RFP for -- you issued on June 3rd. When do you expect that RFP process will be completed?

MR. KOVESDY:
It should be complete sometime in the end of July or August.

LEG. ROMAINE:
Okay. The end of July, beginning of August?

MR. KOVESDY:
Sometime in August.

LEG. ROMAINE:
Okay. So then our next committee meeting is at the end of July, I won't raise this question with you then, but I will raise the question with you at the two meetings from now which is in the middle of August and ask the status of that. Is that fair?

MR. KOVESDY:
That's fair.

LEG. ROMAINE:
Okay. The next question is in our budget we were all assured a revenue from the red light camera. And I asked a ton of questions about this when I was on Public Works last year, because I had my own doubts about this because we were told that they would be installed in January. Has any red light cameras that you are aware of been installed in this County as of today and are we receiving any revenue from that or potential revenue from that?

MR. KOVESDY:

Not as of today.

LEG. ROMAINE:
So we still don't have any red light cameras as of today installed in this County. So what happens to the economic projections in our budget that provided for that?

MR. KOVESDY:
When the Legislature, Budget Review Office and the County Executive made a presentation a few months ago, they addressed the fact that the red light camera revenues would be less than anticipated.

LEG. ROMAINE:
They did. And they said installation would definitely begin towards the end of April, beginning of May. This is now the beginning of June and your testimony is that there's no red light cameras in this County. So how much less revenue would we be getting than you originally projected that we would be getting?

MR. KOVESDY:
If you address this at the Public Works Commission, maybe somebody here could give you better answers than I do (sic).

LEG. ROMAINE:
But you're the budget person. I 'm not asking a Public Works question. I don't care where they are, what they look like.

MR. KOVESDY:
I don't have the answer in front of me.

LEG. ROMAINE:
Can you get me that answer by the end of week? Is that fair?

MR. KOVESDY:
I'll bring the question back.

LEG. ROMAINE:
You can fax it to my office. If you can fax how much less revenue are we getting. Thank you.

CHAIRMAN GREGORY:
Let's stay focused. You have any questions about the fuel tax?

LEG. ROMAINE:
No.

CHAIRMAN GREGORY:
No. All right. Thank you for your input. Legislator Schneiderman and then the Presiding Officer.

LEG. SCHNEIDERMAN:
I'll go back to the fuel tax. So under current projections, this relief actually would provide zero relief, because it's not above that three dollar wholesale price. But if we averaged out, if we looked at the last few years, it could potentially provide relief somewhere between two million and eight million perhaps. But we don't really have any money to give. That's what's really been holding up my trying to create some relief on the home energy tax.

So if we find that we have some money to give, to give back, the question is how do we best give it back. I prefer a reduction in the energy tax, the home energy tax, because that affects all of our residents. The gasoline tax affects some of our residents, but a lot of people who don't live here

who happen to be driving through. So I think if we're going to decide we have a million dollars, $2 million, $10 million that we can give up, let's do it in a way that helps the most people who need it the most. And unfortunately, this may not. This may help a lot of people who don't live in Suffolk County. So it's something to think about.

CHAIRMAN GREGORY:
Presiding Officer.

P.O. LINDSAY:
Allen, who was the sales tax consultant in the past?

MR. KOVESDY:
Thomas Conoscenti and Associates. They are two PhDs. Dr. Conoscenti and Dr. Kutasovic.

P.O. LINDSAY:
What do they do? Do they project what sales tax is going to be? Is that their role?

MR. KOVESDY:
Last year they did a model for 2009 and 2010. They gave us a range for both years.

P.O. LINDSAY:
Okay. Budget Review, do we use consultant or do we do that estimate inhouse? We use Robert. You're not a consultant, right?

MR. LIPP:
No.

LEG. ROMAINE:
Straight-salary guy.

P.O. LINDSAY:
I feel better. I just question, Allen, I don't know what we're paying Mr. Conoscenti -- and I've known him for a long time, he's a very good economist -- but I just question why we need him. I mean, you don't have to answer that. It's just philosophical.

LEG. SCHNEIDERMAN:
Can I just provide information, because these guys, you know, they can look at what the sales tax came in last year, they can look at some early numbers, but what a private economist could do is start looking at all the orders that are coming in that are going to lead to sales; advanced orders, reservations, that kind of thing, and make a more detailed projection on what is going to come in, not based on what came in last year, but based on orders for sales, that kind of thing. So it could be a useful thing to have if it looks like we'll have more money or less money significantly than the year before.

CHAIRMAN GREGORY:
I don't devalue the value of consultant. I met with Dr. Conoscenti recently, and, you know, it's a science; there's different models. You know, they kind of educated me on Mr. Lipp's model; the import-based model; and Dr. Conoscenti is an export-based model. They take in different variables and things like that into their -- it's not a perfect science, but it's their, you know -- you know, how they calculate the different variables and what they see as important. You know, he has been very close in his projections.

P.O. LINDSAY:
Legislator Schneiderman interrupted in the middle of me.

CHAIRMAN GREGORY:

Well, he's been a bad boy today. We're going to put him in Time Out. He's not properly dressed and he's cutting you off.

P.O. LINDSAY:
As far as projecting sales tax, it's been up and down all year long. I mean, the County Executive using Mr. Conoscenti's model projected a five percent increase this year. Earlier in the year, he was pounding his chest, "I'm right, the Legislature is wrong." Budget Review projected 2.7; am i correct, Robert? 2.75. We picked the number of a 4% growth. What is the growth right now?

MR. LIPP:
Well, the year-to-date revenue is 2.66%.

MR. KOVESDY:
If I might.

MR. LIPP:
If I could finish then. Actually because of a variety of factors, we're hopeful that it will come in little higher than the 2.75%. But definitely the adjustments to the first quarter from 5% down to 2.63% for the first quarter. And if you make an adjustment to account for actual consumer spending, that 5% growth was really only three and a half. And the final first quarter number after the adjustment, which was only a growth of 2.63% to the first quarter really is only a one and half percent if you look at actual vendor sales. The point to be made is unfortunate as that is, it's more in line of what we would have expected in the first quarter. Although, we're sad to hear that we're not doing as good.

MR. KOVESDY:
I just want to add, if I might, and don't disagree with Robert. The last three times we were here, as the numbers went up and down, we said that we could not give you any accurate number until the half a year. We have two more checks coming the last week of June. The second check that we get at the end of June has an adjustment in it. We're happy that the number is higher. As we get a little bit more into the year we can get a little bit more accurate. But for people to say you're perfect today or you're perfect yesterday, we would prefer to wait until we had a little more hard information.

P.O. LINDSAY:
I couldn't agree with you more. It's a moving target. But, you know, right now, Robert looks like he's on the money as opposed to Mr. {Conosenti}. By the end of year, who knows? And as far as this bill is concerned, for us to adjust any tax policy up or down at this point, I think a lunacy. We just heard where we are fiscally. To talk about adjusting any taxes down at this point, you're just cutting your throat. I mean, because, you know, we're faced with policy decisions probably the end of the year of whether we're going to layoff people, are we going to close our nursing home, are we going to buy into an early retirement. You know, the decisions are just horrendous. Anything that we would do that would reduce whatever revenue out there is -- just makes the choices much, much more difficult.

MR. KOVESDY:
The only reason I came up here is I just got some information from the State, just to give you some statistical information on how many gallons are sold in Suffolk County over past few years and, you know, what we consider the wholesale price where something would kick in. In 2006, there was 694 million gallons; in 2007, there was 705 million gallons; and 2008, there was 678 million gallons sold. So the gallonage had gone down. And that just a quick look -- when you look at the wholesale, you have to subtract the eight cents that New York State Sales Tax has in it, you have to subtract the eight cents in New York State Excise Tax, you have to subtract the 18.4 cents --

MR. LIPP:
That's not 100% correct.

MR. KOVESDY:
You have to subtract the New York State -- the Suffolk County Sales Tax to it. So you have to get over 325 before you actually get to a base of $3 in this particular calculation. But I just wanted you to know how many gallons were actually sold in Suffolk County over the years. And the gallonage has gone down 20 million gallons from the last report. That's all I really wanted to say, to give you some statistical information.

CHAIRMAN GREGORY:
Robert, you had something to say?

MR. LIPP:
Just the eight cent State Excise Tax, there are two State Excise Taxes and one federal. The last eight cent State Excise Tax is after the sales tax is applied. So what you have is the wholesale price which includes sort of like a base gasoline price plus to excise taxes, one State and one Federal. Then you add all of those together and then the sales tax is on top of that. We made the adjustments for that. The numbers are volatile. You know, whether our three million or his, I don't know, higher number is accurate, you don't know, because the numbers are volatile. Like we said, if you go back to 2008, you know, the hit could be ten million. It could be higher if prices go higher. And in 2009, probably the hit would have been zero. So, you know, the fiscal impact we did was a reasonable representation.

CHAIRMAN GREGORY:
Legislator Losquadro.

LEG. LOSQUADRO:
I want to just vote on this, but since we've gone off on multiple tangents here, I will just ask a quick question based on the comment we laughed about about yesterday's little mistake, the little oops that happened with the adjustment to our sales tax revenues. How often have we had a mistake of that magnitude? And why, given the magnitude of that mistake -- I don't want to ask you to speculate here, because I know it's not your problem -- but given the amount of sales that would have been necessary to generate that type of tax revenue, is this something that's commonly missed or that we get that type of adjustment called back to us?

MR. LIPP:
I think this is a unique thing, which I don't know if it could happen again in future, because people are doing their taxes online now and this person did that. It would have required that this individual in Suffolk County whoever it may have been would have spent on internet purchases that weren't taxed over $116 million in 2009 which would have been a pretty wealthy guy. I wish I was that guy.

LEG. LOSQUADRO:
He's got some Amazon account.

MR. LIPP:
Really. I guess the biggest adjustment I could think of is probably related to the 2001 9/11 where literally, you know, the lock boxes -- some of the lock boxes, the main ones in the banks, were downtown over there so that we literally did not get a lot of the revenue which came in six months later after their adjustments. The normal thing is they make the adjustments six months later, so we see wild swings at the end of the quarter potentially associated with that. This was a glitch that it's not even going to show up in adjustments. It's just they gave us money of almost 5 million in March and they took it away with the last check which we I guess officially received yesterday. That's a glitch that I've never heard of before.

MR. KOVESDY:
The last time this happened was three years ago they made a mistake and they corrected it six months later.

LEG. LOSQUADRO:
Not on this order of magnitude though.

MR. KOVESDY:
It was three or four million dollars, I can get you the exact number. They made an error, they sent us something in writing apologizing for the error. But that was the last time that that happened. This was just unique. When we found out on Thursday morning, we tried tracing it all the way back. And they were very apologetic. They were even apologetic this morning before I came here. I was just getting the head's up that they were going to be on the front cover of Newsday. So the lady would accept my phone calls in the future (sic).

CHAIRMAN GREGORY:
Let's move on.

LEG. LOSQUADRO:
Thank you. I just wanted to get that on the record.

CHAIRMAN GREGORY:
All right. Madam Clerk, we have a motion to approve and a motion to table.

MR. ORTIZ:
Just a motion to table.

CHAIRMAN GREGORY:
Okay. All right. All those in favor? Opposed?

LEG. D'AMARO:
Opposed.

CHAIRMAN GREGORY:
Abstentions? Okay. **TABLED (VOTE: 4-1-0-0 - Opposed - Legis. D'Amaro)**.

1631, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 342-2010. (Co. Exec.)

LEG. LOSQUADRO:
Motion to approve and place on the Consent Calendar.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
We have a motion to approve and place on the Consent Calendar by Legislator Losquadro, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**

1636, Amending the 2010 Operating Budget and appropriating funds in connection with bonding a settlement for an Auto Liability case. (Co. Exec.)

LEG. LOSQUADRO:
This was approved by Ways and Means, Mr. Chair?

LEG. D'AMARO:
Just for the record, this was considered and approved unanimously by the Ways and Means Committee. Motion.

CHAIRMAN GREGORY:
Ms. Bizzarro, you have anything to say? We have a motion to approve, seconded by Legislator D'Amaro. And Legislator Romaine.

LEG. ROMAINE:
My question is we are amending the Operating Budget. I assume there's $550,570.93 somewhere. We're going to bond for this. If we are bonding this, we can bond this as part of the Operating Budget? What are we doing here in terms of how does this affect our Operating Budget this year and for the next five years?

MS. BIZZARRO:
The question was regarding --

LEG. ROMAINE:
I think this is a question for Budget Review.

MR. LIPP:
This would be bonded, so it would presumably, I guess, go out in the fall borrowing, mid November to beginning of December. And it would start to impact the operating with the debt service next year.

LEG. ROMAINE:
Okay. Because the resolution in front of me that we're amending the 2010 Operating Budget 2010. Obviously, we're amending the 2010, 11, 12, 13, 14, 15 Operating Budget.

MR. LIPP:
We can't amend future budgets.

LEG. ROMAINE:
Right, because obviously they haven't been adopted. But we're committing -- are we bonding this? Is this part of the Operating Budget? Is this a Capital expense? What are we doing?

MS. VIZZINI:
The short answer is by bonding this it gives you the appropriations, the 540,000, which are not sufficient in the Operating Budget.

LEG. ROMAINE:
There are not sufficient monies in the Operating Budget to pay this claim so we have to bond it out.

MS. VIZZINI:
That's the policy determination, yes.

LEG. ROMAINE:
What is the other options?

MS. VIZZINI:
If you had to pay cash for it, you'd have to take it from some other source.

LEG. ROMAINE:
Okay. Thank you.

CHAIRMAN GREGORY:
Motion to approve and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-0)**.

1663, Amending the 2010 Operating Budget and appropriating funds in connection with bonding for an order for attorney fees as part of an employee liability case. (Co. Exec.)
Motion to approve.

LEG. D'AMARO:
Mr. Chair, I'll second the motion. And just again, for the record, this was considered and unanimously approved by the Ways and Means Committee in Executive Session. It was a settlement of attorney's fees.

LEG. LOSQUADRO:
On the motion.

CHAIRMAN GREGORY:
Legislator Losquadro.

LEG. LOSQUADRO:
This is just for the attorneys fees portion, and that the was just over million dollars? What is the dollar figure here?

MS. BIZZARRO:
The dollar figure on attorneys fees was approximately nine hundred thousand dollars. With interest, it came to this number; $932,000 was the attorney fee.

CHAIRMAN GREGORY:
I have 425,000.

LEG. LOSQUADRO:
That's the next one.

LEG. ROMAINE:
That's the next one.

CHAIRMAN GREGORY:
1663.

LEG. LOSQUADRO:
$1,022,583.40, that's with the interest. Is there going to be another component of this to settle?

MS. BIZZARRO:
No other component.

LEG. ROMAINE:
We were not found liable; is that correct? The County was not found liable in terms of the facts of the case?

MS. BIZZARRO:
No. There was a verdict, and there was ultimate liability, yes.

LEG. ROMAINE:
But only for the attorneys' fees, not for any --

CHAIRMAN GREGORY:
Dan has the floor.

LEG. ROMAINE:

Sorry.

LEG. LOSQUADRO:
I was just asking the same question, it's all right. That was where I was going. This includes the liability settlement, or this is just the attorneys' fees, that's what I was asking?

MS. BIZZARRO:
The liability on this was rather minimal. Ultimately, there was not a lot that was granted to the plaintiffs. However, they spent much time on trial, and a lot of attorneys' fees were spent. And unfortunately, the rates in the Eastern District have been going up, so this was an accumulation. This was an application that the plaintiff's counsel made, and they fared well, yes.

MR. ZWIRN:
But you are right, you could argue that the County really -- even though there was a small judgment on behalf of the plaintiffs in this case, the real winners were the attorneys and not the --

LEG. LOSQUADRO:
Absolutely. And that's why many times in the insurance industry, you know, when I worked in the business, settlements were made based on the potential expenditure of a trial. And I look at something like this where we now lost a million dollars in attorneys' fees, you know, for something that we would up fighting for God knows how long on a relatively small liability case.

Obviously, we can't discuss the facts of that case at this point. But again, it is so troubling to me that we are self-insured, we don't have an excess policy to cover us for this sort of thing. And we wind up going into trials that wind up costing us a million dollars in attorneys' fees. You know, for past six years, we've been talking about the problems of our liability exposure, and we haven't done a thing about it. I know the time is not great right now, I know we haven't had a whole lot of success getting these policies in place, I know we've tried in the past, but, you know, this is an unsustainable situation for us to continue in.

MS. BIZZARRO:
The problem in this case was the demand was so incredibly high that we really had no choice. And we were really confident that we were going to win. The jury felt that the plaintiffs were not entitled to a lot of money and did not give them that. Unfortunately, the lawyers were the winners in the end.

LEG. LOSQUADRO:
If we ever wanted an argument for tort reform, it's rights here. Put that burden back on the person who does not prevail in the case, and we'll see how quickly frivolous lawsuits drop off. And maybe that demand would have been more reasonable at the outset.

LEG. ROMAINE:
Yes. Other than the attorneys' fees, what was our ultimate liability to the plaintiffs?

MS. BIZZARRO:
It was approximately under $15,000 for each plaintiff. There were six individual plaintiffs.

LEG. ROMAINE:
Okay. So there were six individual plaintiffs, $90,000, but over a million in legal fees. Let me ask about our self-insurance policy that we have. And Legislator Losquadro raised an issue that I think is pertinent to this Budget Committee. We have a self-insurance policy, does that cap out at a million dollars?

MS. BIZZARRO:
There's no policy.

LEG. ROMAINE:
We have no policy.

MS. BIZZARRO:
We may have an excess on this, but it's probably three million. I'm not sure is we had somebody from Risk Management here.

LEG. ROMAINE:
Okay. You know what I'm going to ask the Chairman? Because he made some excellent points that this committee should be far more proactive in our information regarding County budgeting policies and things that have an impact on budget. I'm going to ask maybe at our next meeting if we can have Risk Management come down here to discuss our insurance policies for Workman's Comp, for General Liability, all of our insurance policies as they relate to County Government, so we know and we can make some determination what our exposure is right now. I think that would be helpful if we add that and we could ask some questions about our exposure.

CHAIRMAN GREGORY:
Certainly.

LEG. ROMAINE:
Thank you.

MR. ZWIRN:
If I might just add, I think that one of the things it highlights is the competence of the County Attorney's Office despite the judgement for the lawyers. This was done inhouse. We did not higher outside counsel. Our County Attorney's Office handled this, and they did a marvelous job at trial limiting the award that was granted to the plaintiffs. But we did not have control over the legal fees on the other side. So if you think that the County Attorney's Office who pretty much won these cases, you can imagine what they would have had -- you know, if the plaintiffs were successful, their lawyers' fees. Would have been even bigger.

LEG. ROMAINE:
If I may, Mr. Chairman, I just want to second what Mr. Zwirn said. I've always been impressed generally with the professionalism of the County Attorney's Office. And my questioning in my way had any bearing on that whatsoever. Thank you.

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
Ms. Bizzarro, the attorneys' fees are awarded under a statute, is that how we get to attorneys' fees?

MS. BIZZARRO:
It used to be under the lone star in Federal Court. Now they're using sort of a different method, but it's really more case law that guides what the judges and how the judges make their determinations in these cases.

LEG. D'AMARO:
What type of case -- if you can say on the record, what type of case was this where the attorneys get the attorneys' fees?

MS. BIZZARRO:
This was a Title Eight, a violation of constitutional rights, including gender. That was the general scope of this.

LEG. D'AMARO:
Does that require that the plaintiff prevail in order to get attorneys' fees?

MS. BIZZARRO:
Yes, but they can prevail on some of the issues, not all of them. They can still be entitled to an award. That would just be how the judge decides to cut the award up.

LEG. D'AMARO:
So the irony is although the arrears were low, if you award something, then under the law, you're entitled -- the plaintiff's attorneys are entitled to those fees.

MS. BIZZARRO:
Right. And there was a reduction. The plaintiffs' counsel was asking for millions in attorneys' fees. So it was cut.

LEG. D'AMARO:
And that was my next question. So the fees were reviewed and negotiated, I would assume, working with the court. And this was the number that was arrived at and agreed on by the parties and so awarded by the court?

MS. BIZZARRO:
It was so awarded by the court actually, yes. And they had New York lawyers, and their rate is higher, their hourly rate. And the courts gives deference to that. And there's this whole formula that they use and it's set forth in the cases that support the fees.

LEG. D'AMARO:
What happens if we don't approve? What happens if we don't approve?

MS. BIZZARRO:
There would be -- - I guess --

LEG. D'AMARO:
Let me just give you my thought. Would that send this back to further negotiation, or would we be in contempt?

MS. BIZZARRO:
At this point where we have a judge's order, that could be problematic in terms of being in contempt. I mean, there could also be a scurry to find the money in cash somewhere. But if the money is not found that could be very problematic at this point, yes.

LEG. D'AMARO:
So the County would have to make a decision, I guess, whether or not to fight the order somehow, risk being held in contempt or find money without bonding. In other words, the award could be paid in cash without an approval by the Legislature?

MS. BIZZARRO:
I don't know -- yes. If the money were available somewhere in one of these lines in Risk Management, it could be paid. But my understanding from Gail is that the money is just not available.

LEG. D'AMARO:
So the settlement approval by Ways and Means in Executive Session gives you the authority to pay. You are here because it's being bonded in effect.

MS. BIZZARRO:
Correct. Right.

LEG. D'AMARO:
Okay. All right. Thank you.

CHAIRMAN GREGORY:
All right. We have a motion to approve.

MR. LIPP:
Case in point, one piece of information. The fiscal impacts refer to five-year bonds -- that is the County Executive's fiscal impacts -- and we haven't done that type of borrowing in quite a long time. It's really 18 to 20 year bonds, period. So it's a little more expensive.

CHAIRMAN GREGORY:
All right. So we have a motion to approve and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-0)**.

1664, Amending the 2010 Operating Budget and appropriating funds in connection with bonding a settlement for a bus liability case. (Co. Exec.)

I make a motion to approve.

LEG. LOSQUADRO:
I'll second.

CHAIRMAN GREGORY:
Seconded by Legislator Losquadro.

LEG. D'AMARO:
Just for the record, it went Ways and Means. Again, it was unanimously approved by the Ways and Means Committee in Executive Session.

CHAIRMAN GREGORY:
Okay. All in favor?

LEG. ROMAINE:
Just a quick question. When we have these cases, and I understand they've been adjudicated, we've lost, we have a liability, we obviously have a legal obligation to pay that liability. That much I understand. But what I'd like to understand a more little bit more is in cases where we do have liability, obviously there's been some type of -- I don't want to say screw up -- but someone did something wrong, because a court is saying, "Hey, you did something wrong." Do we have a follow up to determine, you know, what action, corrective action, if any, or is the Executive charged with taking corrective action to ensure that existing liability does not occur again? For example, I believe the million dollar case probably had to do with female police officers, if I'm not mistaken, without getting into detail.

Obviously, the court must have felt that there was some liability. And even though it was minimal, we are stuck for a million bucks in legal fees. Obviously, there was some bus liability case that we're going to be stuck for 425,000. If I'm running a business and I'm being sued and I'm losing and they're expensive lawsuits, I'm taking whatever corrective actions I can to ensure that those things don't happen again. What corrective actions do we have in place and how do we find out about these corrective actions? Because I'm voting on these large settlements and I'm saying to myself, "I don't want to vote continuously on these large settlements." I assume that there is some corrective action being taken to ensure that this liability longer exists or is limited or whatever.

CHAIRMAN GREGORY:
That's a fair question. I think it's appropriate in this case where the County is liable presumably for

procedures or practices that County employees have done. Are we taking corrective action to ensure that those same actions are not done in the future?

MR. ZWIRN:
The answer is yes, especially in bus cases. I know that former Deputy County Executive Fred Pollert was very much concerned about this, because we see these bus cases where people fall or get hurt on the buses, on what corrective actions -- slow down. So we have taken mitigative measures with respect to certainly the bus incidents. And I think Lynne will talk to the other mitigation measures that are taken by the County as a result of these lawsuits.

MS. BIZZARRO:
We make sure that we discuss -- you know, on the case that we were talking about with the attorneys' fees, we talk with the Commissioner and make sure that the policies and procedures are all in place and we make sure that, you know, we're not going to see that type of lawsuit again in the future. We try to look at all their policies and procedures and make sure that everything is consistent. So mitigation measures are absolutely taken.

In addition, I believe we file with the Ways and Means Committee -- every six months we're required to file a report, and we do file a report indicating all the cases that were before the Ways and Means Committee indicating the amounts and that mitigating measures have been taken and what those measures were. So we do that and we do report to you.

LEG. ROMAINE:
Unfortunately I'm not on the Ways and Means Committee. And I would suggest to our Chairman, since Legislator D'Amaro correctly pointed out that this committee should be even more proactive, I would suggest to our Chairman that we should make -- when we're voting on million dollar settlements, half a billion dollars -- million dollars settlements that we should be more proactive in getting information of where the court found -- because the court records are public information, they're public information. They are filed in a County Clerk's Office, unless it's a federal case, in which case they file in Federal District Court. They're public information.

We should find out what -- where the liability existed and state it, because it's public information. It's not that this is a deep dark secret once the case is over. And then we should be told, "This is the action that the Executive Branch has taken." This should be a report that should be done on a quarterly basis to this Legislature for any case of over $50,000 liability, because that's substantial liability. We should be told; is it a policy or procedure change that was made? Is it some other thing with buses that were made; an equipment change, a speed change, the driver was replaced, we have a better screening for our bus drivers, we have this, we have that. Whatever it is, that should be done on a quarterly basis based on any liabilities that have occurred. Because these are large settlements that if we could avoid in the future and if we could exercise our oversight responsibilities, we certainly can make sure that there are checks and balances in the system to limit the liability that the County has. Thank you, Mr. Chairman.

CHAIRMAN GREGORY:
All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-0)**.

LEG. SCHNEIDERMAN:
Before we adjourn, I have a question.

CHAIRMAN GREGORY:
Okay. You're killing me.

LEG. SCHNEIDERMAN:
This is a question for BRO but it may also be for the County Executive's Office. Today's a fairly big day we think for the Shinnecock Nation out in my district. They're widely expected to receive federal recognition which will enable them to establish a casino.

We talked quite a bit today about the County's fiscal crisis, this looming major budget deficit. There's been reports of conversations with the governor, Governor Paterson, over a compact. I understand in other counties that had have casino gambling, the revenues are significant if the compact is structured appropriately. We're not talking about millions or even tens of millions, but hundreds of millions of dollars as I understand it. So are we at the table? I know there are some sites in Nassau that have been tossed around. Are there sites in Suffolk? What role is the County playing? And what are the potential impacts, positive and negative, if this comes to Suffolk County versus Nassau?

MR. ZWIRN:
If I might, Mr. Chairman. I attended the last task force on the Gaming Commission. It's chaired by Legislator Horsley. And they were considering sites. At that time, it was the Calverton site was -- that's owned by the Berman Development Corporation. And they were making a presentation. They're looking at sites now. There will be another meeting of the Legislator's Task Force on Gaming looking at other sites. I think the next site they're going to look at is the airport in Brookhaven. They've also looked I think or they're planning to look at the old Par Meadows site along the Long Island Expressway in the Town of Brookhaven as well. I'm sure you're not advocating for a site out in the eastern part of the Island, because there's just no -- traffic just couldn't support it. But I think that there is a great deal of support in the Legislature for bringing this gaming --

LEG. SCHNEIDERMAN:
Has anybody analyzed the economics of it in terms of what it might bring into the County?

MS. VIZZINI:
We did some preliminary investigation for Legislator Horsley to be discussed at this Gaming Commission. What we looked at was other states and municipal entities that had Indian casinos under their jurisdiction. In most of the existing examples, Nevada, Connecticut, the state is the chief beneficiary. You're absolutely correct in terms of it depends on how the legal documentation is drafted, but it is primarily the state, in terms of what exists now, that is the primary beneficiary.

LEG. SCHNEIDERMAN:
That compact, as I understand it, can be written in many ways. We need to be at the table. If it is going to happen in Suffolk County, the County Executive or his designee needs to be part of that conversation so that if it is going to happen -- and there's certainly a cost associated to us -- that we see significant revenues. You know, I don't know what those revenues might be. You know, I hear on the radio what Mohegan Sun Foxwoods do, just their slot machines, on a monthly basis. We're talking hundreds of millions of dollars.

MS. VIZZINI:
Typically, the state has some sort of percentage of the profits. And again, it's not million of dollars based on our preliminary research, depending on what period of time you're looking at. But Legislator Horsley or the County Executive may have more information. We just did the preliminary research.

MR. ZWIRN:
I think it also depends if the land that is used is public land or -- so the municipality will get a different kind of arrangement -- whether it's built on private land. But the biggest problem is going to be in siting a potential casino because of the impact on any community. And traffic impact is going to be the one issue that's going to have to be resolved, because that's the one that most people are concerned about and rightfully so.

LEG. SCHNEIDERMAN:
Is there any suitable County? Would that put us in the best position in terms of reaping revenues from it?

MR. ZWIRN:
There were rumors I think from the community that the County was looking at the Legacy site, and that's not on the table. The County Executive has no interest. He's still pursuing Legacy Village. That wasn't considered an option. Is there other County land? I think the Gaming Commission would have to -- the Legislative Gaming Commission would have to respond to that. We haven't made any available.

LEG. SCHNEIDERMAN:
Thank you.

CHAIRMAN GREGORY:
Okay. We don't have any more business so we stand adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 11:33 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY