BUDGET & FINANCE COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

MINUTES

A special 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 Friday, October 15, 2010.

MEMBERS PRESENT:
Legislator DuWayne Gregory - Chairman
Legislator Lou D'Amaro - Vice-Chair
Legislator Daniel Losquadro
Legislator Ed Romaine
Legislator Jay Schneiderman
Presiding Officer William Lindsay - Ex-officio

ALSO IN ATTENDANCE:
Legislator Steve Stern - Legislative District No. 16
Terry Pearsall - Chief of Staff/Presiding Officer Lindsay's Office
George Nolan - Counsel to the Legislature
Sarah Simpson - Office of Counsel to the Legislature
Tim Laube - Clerk/Suffolk County Legislature
Gail Vizzini - Director/Budget Review Office
Robert Lipp - Deputy Director/Budget Review Office
Kara Hahn - Director of Communications for Presiding Officer Lindsay
Bill Shilling - Aide to Presiding Officer Lindsay
Michael Pitcher - Aide to Presiding Officer Lindsay
Michael Cavanaugh - Aide to Presiding Officer
Justin Littell - Aide to Legislator D'Amaro
Jason Richberg - Aide to Legislator Gregory
Debbie Harris - Aide to Legislator Stern
Ben Zwirn - County Executive's Office
Ed Hennessey - Intergovernmental Relations/County Executive's Office
Brendan Chamberlain - Intergovernmental Relations/County Exec's Office
Dennis Brown - Bureau Chief/County Attorney's Office
Paul Sabatino - Attorney
Rick Brand - Newsday
All other interested parties

MINUTES TAKEN BY:
Alison Mahoney - Court Stenographer

MINUTES TRANSCRIBED BY:
Denise Weaver - Legislative Aide

*(*The meeting was called to order at 11:09 A.M.*)*

CHAIRMAN GREGORY:
Good morning. Welcome to the Special Meeting of the Budget and Finance Committee. We are going to get started, so we'll ask that Legislator D'Amaro lead us in the Pledge of Allegiance. Thank you.

Salutation

Okay. We don't have any cards. Was there anyone in the audience that would like to speak; please come forward. Okay. We will go to the agenda.

P.O. LINDSAY:
Do we need a motion to close public portion, George?

MR. NOLAN:
No.

P.O. LINDSAY:
Okay.

Tabled Resolutions

CHAIRMAN GREGORY:
Okay. We have **IR 1972 - Authorizing transfer of funds from the Tax Stabilization Reserve Fund to the Retirement Contribution Reserve Fund. (Presiding Officer)** before us. I make a motion to approve.

P.O. LINDSAY:
I'll second it.

CHAIRMAN GREGORY:
Second by Legislator -- Presiding Officer Lindsay. And for discussion we have the County Attorney's Office.

MR. BROWN:
Thank you, Mr. Chair. Before the vote, I would just like to bring one thing to the committee's attention, and it's an issue that we've been researching since the bill was first introduced. And we've recently come to the conclusion, and very recently have come to the conclusion, that the transfer that's being considered by this bill would be inconsistent with section 6-E of the General Municipal Law.

If I may explain, Section 6-R of the General Municipal Law authorizes the Retirement Contribution Reserve Fund. And in 6-R of the General Municipal Law, it specifies how the fund is to be funded. And one of the -- one of the subdivisions in the section states that, *"Notwithstanding any law to the contrary, that the funding can take place via the transfer from the Tax Stabilization Reserve Fund to the Retirement Reserve Fund."*

Now, we looked at 6-E and we looked at 6-R, and if you read not -- the notwithstanding language, very broadly, it would totally undermine the -- all the protections and the parameters that are built into 6-E of the General Municipal Law. Under 6-E of the General Municipal Law, money can be spent from the Tax Stabilization Fund in very limited ways. It can only be expended for an unanticipated revenue loss, an unanticipated expenditure or to mitigate a tax increase, and it can only be expended by a recommendation of the County Executive upon a two-thirds vote of the governing board; in this case, the Legislature.

So when we compare these two sections, it makes sense that 6-R is meant to modify 6-E to the extent on how money can be spent. That is notwithstanding 6-E that it can only be spent for an unanticipated loss or an unanticipated expenditure or to mitigate a tax increase, it can also be spent to fund a retirement account. But we do not think that it also can be read to -- to spend the money in a process that's different than what's allowed in 6-E, namely the recommendation by the County Executive and the vote. Because to read it that broadly would totally undermine and 6-E would have no effect whatsoever.

P.O. LINDSAY:
Mr. Chairman?

CHAIRMAN GREGORY:
If I may?

P.O. LINDSAY:
Sure.

CHAIRMAN GREGORY:
Just to layman's terms; your argument is that 6-E -- that 6-E, the difference between 6-E and 6-R is pretty much just the ability of the County Executive to initiate this process instead of this body, as read in 6-R.

MR. BROWN:
Yes, yes.

CHAIRMAN GREGORY:
Okay. All right. The Presiding Officer, I'm sorry, go ahead.

P.O. LINDSAY:
I just wanted our Counsel to weigh in on that interpretation. And just to Mr. Brown, if that was the intent, why was 6-R a separate section? Why wasn't it just put in as one of the reasons under 6-E?

MR. BROWN:
I can't speak as to why 6-R is not in 6-E. But it's just that when we read 6-R, the section that deals with payments, we view it as only dealing with payments, not necessarily altering the process under 6-E.

P.O. LINDSAY:
I hear how you view it, but I'd like our Counsel to weigh in.

MR. NOLAN:
Well, I disagree with Mr. Brown. 6-R of the General Municipal Law clearly authorizes the governing body to make such a transfer from Tax Stabilization to the Retirement Reserve. There's no reference to a County Executive recommendation. And as Mr. Brown pointed out, 6-R has language, notwithstanding any other law, that this type of transfer can be made. It's the plain language of the statute. I think it's a strange reading to try to say that the 6-R section is limited in some way by the provisions of 6-E, and I don't think there's any authority for that -- for that position.

CHAIRMAN GREGORY:
Yes, we have Legislator D'Amaro, then Romaine and Losquadro.

LEG. D'AMARO:
Dennis, first I want to make sure I understand your position that the section 6-R of the General Municipal Law sets forth how you can use the Tax Stabilization Reserve.

MR. BROWN:
Correct.

LEG. D'AMARO:
In other words, authorizing the use of that account to fund the pension reserve.

MR. BROWN:
Correct.

LEG. D'AMARO:
But it's also your position that procedurally we still need to follow section 6-E which mandates initiation by the County Executive and then a two-third vote of the Legislature.

MR. BROWN:
That is correct.

LEG. D'AMARO:
All right.

MR. BROWN:
Actually, except for the two-thirds vote; the two-thirds vote part I don't think would be necessary.

LEG. D'AMARO:
Okay.

MR. BROWN:
Because when you read further into 6-R, it just says vote upon -- vote of a resolution approved by the governing body.

LEG. D'AMARO:
All right. Now, are there other sections -- we're talking about 6-E and 6-R. Are there other sections, because I'm not familiar with the statute, that delineate, similar to 6-R, how the reserve fund, the Stabilization Reserve Fund can be used? In other words, what's the remainder -- what's 6-F, G, H, I, J, K, you know, what's all of that?

MR. BROWN:
Those are other reserve funds, and I don't know them off the top of my head.

LEG. D'AMARO:
Okay, other reserve funds.

MR. BROWN:
Yes.

LEG. D'AMARO:
And so the notwithstanding language of 6-R you believe was -- the intent of that was just to say that if anywhere else there's any question as to whether or not you can use Tax Stabilization Reserve Fund monies to go into the pension reserve, this negates any of that doubt. You can definitely transfer from one account to the other.

MR. BROWN:
Yes. And it has to be, with all due respect to Counsel and really anybody else with a contrary opinion, it has to be because otherwise then 6-E is meaningless. And since when the Legislature passes a statute, it's a law of -- it's presumed to be a law of all the other laws on the books. It can't be that it intended that 6-R would be able to totally vitiate 6-E, and particularly if you look at it in the light of how 6-E money can be spent; it can only be spent upon a two-thirds vote. If you were to read 6-R broadly, it totally would eliminate all the protections that surround how you can spend tax stabilization money.

LEG. D'AMARO:
Right. So the intent of 6-R, although it authorizes the use, it's your position that there is still a proper procedure to be followed; 6-R does not speak to procedure, but 6-E does.

MR. BROWN:
Absolutely.

LEG. D'AMARO:
Okay. And George, just to clarify, your position is that 6-R is freestanding also with respect to procedure, and overrules 6-E, in effect?

MR. NOLAN:
Well, I think it's important to recognize, first of all, this provision of the General Municipal Law was adopted after 6-E. So I think there was a recognition, a realization of the restrictions in 6-E, but this, the State Legislature recognized that municipalities are facing increased pension costs and wanted to give a local body the authority to make such a move of money into a pension reserve fund --

LEG. D'AMARO:
George, if I could just interrupt you there, and just to hold that thought. But does 6-R say that specifically or expressly, or is that your reading into intent there?

MR. NOLAN:
That's my reading. And a while back I did get the Legislative packet and read through some of the materials there, and from reading that, that was my -- the general feeling I got from reading the back-up materials.
But I just wanted to also say that 6-R does lay out a procedure; It said that there has to be a public hearing on 15 days notice and a resolution of the governing body to make the transfer. So if it lays out a procedure and there's no mention that it has to be proposed by the County Executive as found in 6-E.

LEG. D'AMARO:
All right, so the intent might have been notwithstanding 6-E, here's a new procedure if you want to do this particular transfer.

MR. NOLAN:
For this particular transfer.

LEG. D'AMARO:
Okay. Battle of the experts.

(*Laughter*)

CHAIRMAN GREGORY:
All right. Legislator Romaine?

LEG. ROMAINE:
Yes, I actually have no questions about this resolution, but I have a question or a point of information, maybe Mr. Brown can help me. In a dispute between the Legislature and the Executive, by Charter, isn't the County Attorney's Office supposed to represent the Legislature?

MR. BROWN:
In fact, that's -- by bringing this to your attention, that's exactly what we're doing. Because expenditure of the funds, under both 6-E and 6-R, could subject governing board members to a criminal penalty, so we want to make sure that everybody is fully apprised of exactly the actions that are being taken.

LEG. ROMAINE:
But Mr. Brown, I'm so confident of your legal expertise in representing the Legislature against the Executive because the County Attorney's Office, by Charter, in a dispute between the Legislature and the Executive, must represent the Legislature. Thank you.

CHAIRMAN GREGORY:
Legislator Losquadro.

LEG. LOSQUADRO:
Thank you. 6-R, 6-E, A, B, C, D, E, F -- you know, we can go through the whole alphabet here and, you know, we can have two sides disagree as to the interpretation of that ruling. But I think we're going a little far afield here and we haven't gotten to the substance of this yet, which is based on the conversations that were had last time with Budget Review, comments made by the Presiding Officer just in today's newspaper, comments made directly to a question posed by Legislator Romaine, posed by myself, this is going to increase our spending and our budget by $20 million. There's no other way to characterize it. We've said we're still going to bond the 19 million, the maximum amount we can for the pension costs; we're going to have a larger structural imbalance next year because we're going to be continuing operating costs; we have pension, local contribution rates that are expected to almost double again from 2012 to 2013 from a local contribution rate next year of 16% up to a potential 30%, and we're going to further deplete our reserves.

I think this is madness, madness. And I think this is one of the worst budgeting ideas I have seen in my seven years here. And I'm not going to flog the deceased equine, but you know I'm not supporting this. I think this is a terrible idea. And it's been made very clear that this money is not going to be used in lieu of our contribution to the pension system, it is just going to be used for cost shifting to free up money to pay for other expenses in our budget, and I completely disagree with it.

CHAIRMAN GREGORY:
All right. Do you have any more?

MR. BROWN:
No, nothing. Thank you.

CHAIRMAN GREGORY:
Okay. Budget Review, do you have any comments that you want to make?

MS. VIZZINI:
We're here if there are any questions. As you are well aware, the 2011 budget includes $30 million, which is incorporated in this resolution, that is transferred from Tax Stabilization Reserve and then immediately expended. Included in the County Executive's budget presentation is the customary authorizing resolution which is similarly constructed to the one before you in terms of the references to the sections of the law. So the process has already been initiated, it's a question of magnitude. But it is clear, according to my discussions with Counsel, that a resolution of the governing body is

necessary to approve the actions.

CHAIRMAN GREGORY:
Okay, thank you. Legislator Schneiderman?

LEG. SCHNEIDERMAN:
I agree this is a question of magnitude. The County Executive has said $30 million is the right number. We are entertaining basically $50 million, an additional $20 million. We have not as a body raised property taxes in the six years that I've been here, so we don't have additional revenues coming in from there, yet we got hit with additional pension costs. Gail, what was the pension costs above what we had anticipated?

MS. VIZZINI:
In '11 it's a $38 million increase over '10, and then there is another $40 million increase in '12. And on top of that there will be about fourteen eight in early retirement costs, which the fourteen eight could be amortized, but the increases are significant.

LEG. SCHNEIDERMAN:
Right. In sum, I know that we're bonding some of this out, right, a portion like 19 million or so?

MS. VIZZINI:
Well, implicit -- that's another policy decision. Implicit in the recommended budget is the borrowing of the maximum amount allowable to address the 2011 increases, which will be paid in '12, of 19 million.

LEG. SCHNEIDERMAN:
Okay. So to cover our pension costs for next year, in 2011, without impacting all the programs that we run, you know, basically our General Fund, what would we need from Tax Stabilization; does 30 million do it, 40 million do it, 50 million?

MS. VIZZINI:
The bill was 67 million.

LEG. SCHNEIDERMAN:
Sixty-seven million; so even 50 million isn't enough to cover it.

LEG. ROMAINE:
That's right.

MS. VIZZINI:
Correct.

LEG. SCHNEIDERMAN:
Right.

MS. VIZZINI:
But we're amortizing the difference.

LEG. SCHNEIDERMAN:
Without having to raise taxes, which I don't think we want to do --

MS. VIZZINI:
That is also a policy decision.

LEG. SCHNEIDERMAN:
-- Or drastically reduce services. So it is a question of magnitude and what is the appropriate number. And it seems to me that 30 million is simply just not enough without destroying the functioning of County government. So it's a -- if somebody else has a magical place to get $20 million, let me know.

CHAIRMAN GREGORY:
I personally don't think there's anyone that -- you know, that would like to go this route, you know, our options are limited. We're put in a position where we have to tap into whatever resources we have available to meet our costs. The County Executive has given us a budget, which I will say again, I call "phantom revenue", as we speak about the closure of the Foley Nursing Home, which doesn't have support. You know, the Legacy Village project, which we won't see any revenue whether you have support for that project or not in 2011.

You know, there's significant amounts of money, upwards of 30 to $40 million in the budget -- revenue has been put in the budget that we won't realize. So we're faced with difficult choices. And I think, you know, this is not the most preferable, but is certainly an option that we have to consider and I think that we should consider. Legislator Losquadro?

LEG. LOSQUADRO:
Thank you. Gail, to those numbers, so we had a $38 million increase for '11 for a 67 million total. That means last year -- well, for this year I should say it was 29 then, that was our contribution? Simple math.

MS. VIZZINI:
The bill is $94 million.

LEG. LOSQUADRO:
You said it was 67.

MS. VIZZINI:
I talked about the General Fund portion of the retirement bill.

LEG. LOSQUADRO:
Okay. So what's the total dollar figure?

MS. VIZZINI:
Ninety-four million in '10, 130 -- well, 94 plus 38.

LEG. LOSQUADRO:
Okay. And then in '12, tack another 40 on top of that?

MS. VIZZINI:
Yeah. And --

LEG. LOSQUADRO:
So if it went up 38 for '11, you're talking going up 78 from this year's rate, potentially, and the Comptroller has already said some of his estimates are wrong so it could be higher than that.

MS. VIZZINI:
No, that's -- those are our estimates based on --

LEG. LOSQUADRO:
The new numbers.

MS. VIZZINI:
-- the rate change by the Comptroller.

LEG. LOSQUADRO:
Okay. So 78 million above where we are for '12.

MS. VIZZINI:
Correct.

LEG. LOSQUADRO:
So we talk about where we're going to get that money this year, if there's a magic place; there's no magic place. We know there are difficult decisions to be made; unfortunately, this body doesn't seem to want to embrace that.

We have an option that includes the sale of the facility. The Chairman was correct, there wasn't the support for that, so then the option becomes closure, which I don't think is a better option. I think the sale is a much better option, because it puts us in a much better place, it puts us in a position where we receive some revenue and we eliminate the ongoing losses and costs associated with the facility. And you don't have a situation where employees and patients are cast aside. I think it's a much better option that unfortunately this body has failed to embrace.

But back to my point of these numbers. We are seeing huge increases, again, for '12. This is akin to what New York State did this year. Are we going to be like that body and punt? We're going to punt past this year and put ourselves in an even worse position for 2012? Because based on what you were just telling me, $78 million above where we stand for 2010 is where we're going to come up just on the pension costs, And we're going to deplete our reserve down to a point this year where we won't even be able to come close to meeting that. So if we talk about magic numbers and phantom revenues this year; oh, just wait till next year. Next year will be a load of fun. Maybe we'll be talking about privatizing things like Child Protective Services or law enforcement or things that are just completely unthinkable instead of just the sale of a facility that provides the exact same service that the private sector provides.

There is a place for government employees, a very important place. You know, and I've been saying, "Well, I want the U.S. military, I don't want Blackwater." I don't want to have to privatize certain functions within government. But if we are providing the exact same service that the private sector is providing and losing money doing it, what are we doing? Putting ourselves in a worse hole and punting out to next year because we don't want to face the reality of the situation this year? Terrible idea. And again, I am not supporting this, the numbers do not substantiate it.

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
Yeah, thank you. I agree, Legislator Losquadro. And a piece that you left out on that was if the facility were sold, many of those jobs could be saved.

LEG. LOSQUADRO:
Absolutely.

LEG. D'AMARO:
I'm not saying that the pay scale would be the same. I really don't know sitting here how many, but at least we have the hope and the chance, as stated by the potential buyer, that many of these jobs would stay with the facility.

I just had one question. I mean, you really laid it on the table but, you know, what do we do next year? We are struggling with our County budget this year. It is very difficult to find revenue without raising taxes on Suffolk taxpayers that can't afford already to pay what they're paying. So what do we do next year with these rising pension costs? It's going to be very, very difficult this year, it's going to be impossible next year unless we plan for next year. And that's where I agree with my colleague, Legislator Losquadro, that we have to, you know, get away from the short-term view of our budget. It's unsound to take this money out of this account at this time knowing next year our pension costs alone are going to double. I call that Suffolk's version of voodoo economics, because we're sticking pins in our bond rating with no hope of helping our budget in any way. That to me just doesn't make any sense.

And going to Legislator Schneiderman, you talked about a magnitude question; it's more than that. You know, the 30,000 -- the $30 million number was just not pulled out of thin air. You go beyond that, you start to impact the bond rating. Now you're talking about increased borrowing costs, numbers like one million or two million more a year. Well, you know what? Tack that right on to the bill over the long-term. You know, these -- it's a very difficult decision to make, but the fact of the matter is that, you know, at 30 million we already know that our rating agencies are telling us it won't impact our bond rating, but at 40 or 50 we are going to have a negative impact on the bond rating. And by the way, next year, if we have to tap that fund even more and go down, I mean, what are we going to do, go to junk bond status? You know, at what point are we going to stop at?

This not sound, fiscal planning for the future. There are alternatives; they are not attractive alternatives, they are difficult choices that we have to make. But we're already tapping this fund for $30 million and to take another 20, again, I just think is unsound.

LEG. SCHNEIDERMAN:
If I can respond.

CHAIRMAN GREGORY:
Yes, Legislator Schneiderman and then Legislator Kennedy.

LEG. SCHNEIDERMAN:
I believe in sound, fiscal planning and budgeting, and we have a budget that basically has 19 plus, $19.4 million related to this closure, sale, whatever you want to call it, of John J. Foley, a decision this body hasn't made, may or may not make. If it decides not to make that decision, we have a budget that's $20 million short. It's not a balanced budget. So to put -- you're putting the cart miles before the horse.

LEG. D'AMARO:
Wll, if I could just respond to that. The budget submitted by the County Executive does not have a $20 million hole in it. It covers that hole by closing the facility.

LEG. SCHNEIDERMAN:
A decision this body hasn't yet made, which may or may not make.
So if we decide -- if we say, "Okay, we're not going to give us the option. We're not going to put this $20 million in place," and then we decide not to close John J. Foley, we have a budget that's $20 million short.

LEG. D'AMARO:
I agree with you.

LEG. SCHNEIDERMAN:
That is a serious problem.

LEG. D'AMARO:
It is.

LEG. SCHNEIDERMAN:
We can't get through the year.

LEG. D'AMARO:
Right. So, you know, you need to make a difficult decision.

LEG. SCHNEIDERMAN:
The action we're taking today doesn't stop that from happening, it just keeps our options open for another day. If we don't put this money in place we have no option.

LEG. D'AMARO:
And if I could respond to that. If we pass this bill out of committee today and pass it in the Special Meeting, I think that you already are going to have that negative impact on the bond rating, you're going to send a very strong message that that's the direction we're going.
And you know what? You're putting your hand right in the taxpayers' pockets with increased costs. The bond rating's going up, it's just that simple.

LEG. SCHNEIDERMAN:
You and I both know there are many, many factors that affect your credit rating. And a lot of it is good fiscal planning and honest fiscal planning, and that's what I'm saying is let's be honest and let's give ourselves some options until we make the decision. If we decide today that we are not going to put this money in place, we have no options left, we must close the facility, sell it ultimately. We haven't had that conversation.

P.O. LINDSAY:
Mr. Chair?

CHAIRMAN GREGORY:
Yes.

P.O. LINDSAY:
Could I just ask a question of Budget Review on this whole issue about bond ratings? What are we spending now for the cost of money?

MR. LIPP:
The interest rates are very low, historically low. For the short-term borrowing, the TANS, which is like less than a year, the net interest rate is slightly less than 1%.

P.O. LINDSAY:
If --

MR. LIPP:
Longer term it's maybe like three and-a-half or so for 19, 20 year serial bonds.

P.O. LINDSAY:
What is our bond rating now?

MR. LIPP:
Our bond rating is AA-2, which is in the middle of the AA range.

P.O. LINDSAY:
Okay. And Mr. Tortora was here last week, our Bond Counsel, and didn't he state on the record that whether it's 30 million or 50 million, we stand a chance of being downgraded one notch; is that correct?

MR. LIPP:
That's my understanding. It's somewhat speculative as to -- as Legislator Schneiderman was saying, as to, you know, what confluence of factors would determine a rating change. It is obvious, though, you know, the more precarious your finances are then it increases the likelihood, but when that threshold is reached remains to be seen.

P.O. LINDSAY:
Okay. And what would one notch downgrade mean in terms of dollars in our borrowing scheme?

MR. LIPP:
Well, our understanding is one notch will still keep us in the AA, and therefore in terms of long-term serial bond borrowing, it's only like five basis points which is, you know, one-twentieth of a percent.

In terms of dollars, I know that Capital Market Advisors had spoken to like a million dollars a year, but the numbers we were looking at were more modest than that. I think it would go up to a million a year; if you compound it over 20 years, you would have increasing steps to do that. So I guess you could say as an upper end it'd be a million a year, but we think that it would take several years to reach that point, for the one step that is.

P.O. LINDSAY:
What do you think the one step would mean to the 2011 budget?

MR. LIPP:
It wouldn't do anything to 2011 -- well, it actually -- the TAN, Tax Anticipation Note, borrowing that would occur in late December could be affected by that. So I'm not sure exactly, it would probably be a few hundred thousand maybe.

P.O. LINDSAY:
Okay. I think in this whole debate, the one thing that I agree with the County Executive on is that we absolutely need some kind of pension reform in the State. The numbers that are being thrown at us that we have no choice at all with are just huge. I mean, this body, as well as the Executive, has done a very good job in managing our money, not raising taxes, keeping some semblance of services. There's been some shortfalls in certain areas that we've talked about and moaned about very loudly, but on the most part, we've been very fiscally responsible in controlling any costs that we have control of. The problem is the costs that we don't have control of. And I don't exactly agree with the Executive with some of his ideas on pension reform, but I think it's a broad view that can be expanded on. I think there's a lot that can be done to reform the pension system because the costs are out of sight.

CHAIRMAN GREGORY:
Yes. BRO, I have a question for you. Is there -- is there is a cap that was in place, put in place for the County Executive's ability to tap into the Tax Stabilization fund? I recall some -- hearing someone say that was a cap for the 30 million, or was it for some other -- Was it the capital borrowing?

MR. LIPP:
The only thing I can think of is there are -- the State law as to how much you could borrow, but we're nowhere near that limit. We could just keep on borrowing much larger amounts and we wouldn't hit against that legal cap.

LEG. SCHNEIDERMAN:
There is a cap on how much you can borrow for the unforseen pension costs.

CHAIRMAN GREGORY:
Maybe that's what it was.

MR. LIPP:
Right. Yeah, we can only borrow a portion of the increase of the pension costs.

LEG. LOSQUADRO:
Nineteen million.

MR. LIPP:
And we are borrowing, implicit in the recommended budget, 19 million for that; from the pension system we're borrowing it.

CHAIRMAN GREGORY:
Okay,

LEG. SCHNEIDERMAN:
Can I --

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
Yeah, just very quickly. And I know this will -- should the bill come out of committee, we'll probably have the same debate. So not to take up a lot of time, but I just want to reiterate, you know, no one's really answering the question, what do we do next year?

We know the downside for next year, we know the pension costs are doubling, we know expenses are always going up. We know tax defaults are up. We know the economy is not improving at a pace near where we would like it to improve. But the flip side of that is we have to deal with reality as it exists. Pension reform? Sure, I'm all for that. It's not going to happen. It's not going to happen within the next 12 months, that's for sure. So we need to deal with the situation as we see it coming at us. And by taking $50 million out of the rainy day fund, when we know that it's pouring this year but next year is the tsunami, just doesn't seem to make sense to me. And I would really urge my colleagues to think about this, because we'll all be sitting here next year and we'll be out of options because we're using one up today.

P.O. LINDSAY:
Could I respond?

CHAIRMAN GREGORY:
Yes, Mr. Presiding Officer.

P.O. LINDSAY:
Yeah, and I don't mean to prolong this because we are going to have this debate again. But I maintain -- never mind look to next year; what are we doing this year? In the budget that was presented to us, there's $12 million for the sale of 95-acres that's part of the Legacy Village thing that hasn't gotten through CEQ, that hasn't passed this Legislature, that probably I don't know whether there's enough support to support this Legislature. So, you know, if that money doesn't materialize, I don't know where we'll get that money from, as well as $19.7 million from selling the building, the license and the property that the -- that the nursing home sits on. Which unless I'm

wrong, and Counsel can correct me, that's declaring property of the County surplus which takes a supermajority vote of this body. And this body hasn't been willing to sell the nursing home; I don't think they're going to take a vote to sell the property. And it shouldn't even be in the budget unless it went through the process. I believe that putting it in the budget is a violation of the Charter. So we have a major problem this year, never mind next year.

LEG. GREGORY:
Legislator Schneiderman and then Legislator Losquadro.

LEG. SCHNEIDERMAN:
First on that issue, because I believe actually there's a couple places where the proposed budget didn't comply with the Charter, the revenue sharing, the C-46 J piece. We have other sections where you have pieces being sold, properties being sold. Maybe the question is for Counsel. I mean, it seems to me if you get a budget that doesn't comply with the County Charter, shouldn't that budget be given back and a new budget submitted that does comply with the County Charter?

MR. NOLAN:
Well, the Charter doesn't provide for that. The Charter says the County Executive gives us a budget, we have a certain amount of time to have that budget amended, and if we don't then the County Executive's budget is the final adopted budget.
So while there are sections of the proposed budget that are highly questionable, the Charter doesn't give us much tools in the sense of being able to kick the budget back and saying, "Fix this and give us a real balanced budget."

LEG. SCHNEIDERMAN:
My other question is really a procedure or a timing question. Let's just say hypothetically we decide not to put the $20 million in place and we decide to close the John J. Foley as the budget -- the proposed budget says. And this budget has, what, 19.6, 19.7 million in savings by doing that. Is that real? Can that be done within 2011? Doesn't the State have to sign off on some of this; aren't there procedural requirements? So might we end up, even if we did all this, with a hole in next year's budget roughly of $20 million? Anyone who can answer that.

LEG. D'AMARO:
Jay, I think the budget funds it through April of next year, but I'll defer to BRO.

LEG. SCHNEIDERMAN:
Right, that may be very ambitious in terms of trying to get the facility closed or sold.

MS. VIZZINI:
The Recommended Budget provides sufficient appropriations based on the closure scenario. Associated with the closure is revenue in the magnitude of $33 million associated -- 27 for the sale of the property and the building, four million for the sale of the license and 2.1 for the sale of the equipment. So that -- and a portion of that revenue is used to balance the General Fund.

LEG. SCHNEIDERMAN:
There's some debt we owe on the building, right? So that's factored in.

MS. VIZZINI:
Yes; included are appropriations to pay off or escrow --

LEG. SCHNEIDERMAN:
But this net, basically, of 19.7 million, which includes operational savings as well --

MS. VIZZINI:
There are appropriations to keep the place open unitl April.

LEG. SCHNEIDERMAN:
Mechanistically, procedurally, is it possible -- and I'm arguing with those numbers other than timing wise, because if you couldn't make that April date, then you actually have to operate it to a further date. Could you actually sell the facility in 2011? You have the surplus declaration, you're going to have a CEQ vote on that. The State, I think, has to sign-off on the selling of a nursing home. How long does this stuff take? Because even if we decided to go this route, it may be unrealistic to assume that 19.6 or 7 million in 2011, which would mean we'd better do something to cover that hole.

MR. LIPP:
The timing is hard to predict. It's possible that given the way government operates, it could take longer than that. But one sort of ace in the hole is that if it was going to be sold eventually and you weren't able to do it until 2012, yes, there would be a deficit if you had the appropriations, yes it would be a deficit, but then you could do the sale in 2012 and overcome that deficit in the following year. It depends on how the budget is structured, though. So the timing definitely is an issue, but hypertechnically, you know, the way you work the budget, it could be worked out in 2012.

LEG. SCHNEIDERMAN:
It wouldn't be the same number, though, because you would have the additional operational costs.

MR. LIPP:
Yes.

CHAIRMAN GREGORY:
All right. I'm going to ask my colleagues just to -- I know that two of you wanted to speak, but I think it's appropriate at this time that we call the vote. If there are any further comments, we can -- and if it pass -- shall it pass, certainly everyone will have the opportunity to speak. I know there are others that are not a part of the committee that want to voice their opinions or concerns about this bill. So I'm going to ask that we call the vote now. We do have a motion; right, Mr. Clerk?

MR. LAUBE:
Yes.

CHAIRMAN GREGORY:
With a second.

LEG. LOSQUADRO:
Just on that motion, Mr. Chairman?

CHAIRMAN GREGORY:
Okay.

LEG. LOSQUADRO:
I will just say I have many more comments. I have a feeling I know which direction this is going in this committee. And if it were to make it out, I will defer those comments until the General Meeting.

CHAIRMAN GREGORY:
Okay, thank you. That's the only motion we have, so --

LEG. SCHNEIDERMAN:
On the motion?

CHAIRMAN GREGORY:
I'm sorry?

LEG. SCHNEIDERMAN:
Just briefly on the motion.

CHAIRMAN GREGORY:
Okay.

LEG. SCHNEIDERMAN:
I mean, this is such a far-reaching decision, such a big decision that I think we'd be doing a disservice to the body to not release it to the full floor to let this be viewed and aired entirely by the full Legislature. That's where it should be vetted.

CHAIRMAN GREGORY:
I agree. All right. All in favor? Opposed?

LEG. LOSQUADRO:
Opposed.

LEG. D'AMARO:
Opposed.

CHAIRMAN GREGORY:
Abstentions? Okay, motion passed. ***Approved (VOTE: 4-2-0-0 Opposed: Legislators Losquadro & D'Amaro)***.

We stand adjourned.

(*The meeting was adjourned at 11:49 A.M.*)

{ } Denotes spelled phonetically