

**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, November 30, 2010.

Members Present:

Legislator DuWayne Gregory - Chairman
Legislator Lou D'Amaro - Vice-Chair
Legislator Ed Romaine
Legislator Daniel Losquadro

Member Not Present:

Legislator Jay Schneiderman - Excused Absence

Also In Attendance:

George Nolan - Counsel to the Legislature
Jason Richberg - Aide to Legislator Gregory
Renee Ortiz - 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
Marge Acevedo - Presiding Officer's Office
Lynne Bizzarro - County Attorney's Office
Catherine Stark - Aide to Legislator Schneiderman
Justin Littell - Aide to Legislator D'Amaro
Rick Brand - Newsday
Dot Kerrigan - AME
All Other Interested Parties

Minutes Taken By:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:07 A.M.*)

CHAIRMAN GREGORY:

Good morning. Let's go ahead and start the Budget and Finance Committee with the Pledge of Allegiance.

SALUTATION

Okay. We don't have any cards. Is there anyone in the audience who would like to speak, please come forward? Okay. Having none, we will get to the agenda. We have no Tabled Resolutions. We have Introductory Resolutions.

IR 2046, Adopting Local Law No. -2010, A Charter Law to discourage speculative revenues and ensure balanced budgets. (Lindsay)

This motion -- this resolution has to be tabled for a public hearing, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2049, To readjust, compromise, and grant refunds and chargebacks on correction or errors/County Treasurer by: County Legislature No. 346. (Co. Exec.)

Motion by Legislator Losquadro 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: 4-0-0-1; Not Present - Legis. Schneiderman).**

2057, Adopting Local Law No. -2010, A Charter Law to increase transparency and accountability in County budget process. (Cilmi)

I make a motion to table for a public hearing, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2095, Amending the 2010 Operating Budget and appropriating funds in connection with bonding for a settlement for attorney fees as part of a Federal lawsuit. (Co. Exec.)

I make a motion to -- Legislator D'Amaro makes a motion to approve, I second. Any questions? Legislator Romaine.

LEG. ROMAINE:

Yes, I do have a question. Can someone explain what this Federal lawsuit was about? Is there a representative from our County Attorney's Office?

MS. BIZZARRO:

Just briefly, because I prefer, as the committee knows, to go into Executive Session until all authorizations are provided by the Legislature. This was the sober house litigation that was commenced some time ago against the County regarding one of the County's statutes.

LEG. ROMAINE:

Who was the plaintiff in this case?

MS. BIZZARRO:

Oxford House.

LEG. ROMAINE:

Okay. And these papers have been filed in Federal Court for public inspection.

MS. BIZZARRO:

I don't know what you mean for public inspection, but it is a Federal action, yes.

LEG. ROMAINE:

I'll explain what I mean. When papers are filed in the County Clerk's Office in Supreme Court cases, all of those records are available, not only the minutes, but the records themselves for public inspection. Under Federal Statute, I believe in a Federal case, unless these papers have some degree of confidentiality granted by the court, they are available for public inspection; is that the case?

MS. BIZZARRO:

As I said, I don't know. The action is filed in Federal Court and all the papers are in Federal Court and they are available.

LEG. ROMAINE:

Okay. What is the settlement -- what is the settlement involved? Is it a monetary settlement? Is it --

MS. BIZZARRO:

If you read the resolution, it states --

LEG. ROMAINE:

I don't have the resolution in front of me.

MS. BIZZARRO:

Okay. It's \$192,500 for attorneys' fees.

LEG. ROMAINE:

We're paying their attorneys' fees. This is a settlement -- this is a settlement that we have entered into, so we are not indicating guilt or anything of that nature? It doesn't say -- I now have the resolution. It doesn't say that in resolution. It simply says that we are paying this fee, and it doesn't even say for attorneys' fees. So that was --

MS. BIZZARRO:

Yes, the title says for attorneys' fees.

LEG. ROMAINE:

Attorneys' fees. Are we admitting guilt in this? Are we changing our laws? What are we doing --

MS. BIZZARRO:

If you'd like to talk about this in more detail, I'd prefer to go into Executive Session. Thanks.

LEG. ROMAINE:

I'm astounded by that request, because these papers are a matter of public record. I'm asking questions that exist in the public record. Have we admitted guilt in this case?

MS. BIZZARRO:

In order to discuss this case any further, I need the committee to go into Executive Session. Until the final resolution has been adopted by the Legislature, I do not feel comfortable talking about this matter in open session.

CHAIRMAN GREGORY:

George, you have something to say?

MR. NOLAN:

I want to respect the wishes of the County Attorney, but it's not really a question of admitting guilt. We passed a law, it was challenged, it was struck down. And Federal Court --

LEG. ROMAINE:

Okay. You are being far more forthcoming. So the law was struck down because it didn't meet the standard that the courts felt it should have met. The law was struck down. And as a result of the law being struck down, the plaintiff applied for attorneys' fees, and this is the settlement for attorneys' fees.

MR. NOLAN:

That's my understanding, yes.

LEG. ROMAINE:

Thank you. That was very helpful. That's all I needed to know.

CHAIRMAN GREGORY:

We have a motion, a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

And before I go on any further, I just want to state for the record that Legislator Schneiderman has an excused absence.

2096, Amending the 2010 Operating Budget and appropriating funds in connection with bonding a settlement for a Bus Liability Case. (Co. Exec.)

LEG. D'AMARO:

Motion.

CHAIRMAN GREGORY:

Motion by Legislator D'Amaro, seconded by myself. Legislator Romaine.

LEG. ROMAINE:

Yes. I have a question concerning the settlement. This is a settlement for \$190,000. I assume -- how far along was this case before we decided to settle?

MS. BIZZARRO:

A jury was selected and we settled the case.

LEG. ROMAINE:

We settled the case at the time of jury selection?

MS. BIZZARRO:

Correct.

LEG. ROMAINE:

And I assume we did so because we felt it was in the best interest of the County to settle rather than go to trial.

Ms. BIZZARRO:

Yes.

LEG. D'AMARO:

Can I just -- I agree wholeheartedly that before the settlement, before you dot the "i"s and cross the "t"s that we should go into Executive Session if you're going to ask questions like that about what's in the best interest or not in the best interest. I think you're approaching a line that we really shouldn't cross in a public forum as long as the litigation is still pending.

LEG. ROMAINE:

This resolution -- with all due respect, I disagree, because this resolution would not be coming forward if someone felt it wasn't in the best interest of the County. To ask that question, I don't think is crossing --

LEG. D'AMARO:

That's not true, Legislator. You know, that is not contained in any court docket, what is in the best interest of Suffolk County or not, in a pending litigation. That's a discussion that I think we should have -- I'm not saying you don't have a right to know or to discuss it, I'm not comfortable asking questions like that, because the Ways and Means Committee goes into Executive Session to discuss these things.

CHAIRMAN GREGORY:

I will make a motion to go into Executive Session.

LEG. D'AMARO:

I'll second.

CHAIRMAN GREGORY:

Seconded by Legislator D'Amaro.

MR. BRAND:

For the purposes of?

CHAIRMAN GREGORY:

To discuss the litigation. Okay. So we have a motion, we have a second. All in favor? Opposed? No?

LEG. ROMAINE:

No. I just wanted someone to explain that this settlement was, for the record, and whether we are in Executive Session or not, when we came out, I'd ask the same question; is this in the best interest of the County? For the record, if someone says yes, I intend to vote for it. If someone doesn't want to say that on the public record, I'm not asking for the details of the case, I'm not asking for anything else except in the judgment of the County Attorney's Office, this is in the best interest of the County to settle this case at this amount, because I rely on the County Attorney's opinion.

LEG. D'AMARO:

The County Attorney does not make that judgement, the Ways and Means Committee approved the settlement. You've served on that committee, and you've served in Executive Session. The County Attorney is not here to make that judgement. We do. Now, if you want to make that judgement, I respect that. If you need to hear the facts of the case, I respect that as well, but I think it should be done in Executive Session.

LEG. ROMAINE:

Why don't you proceed, Mr. Chairman. I'll simply abstain on this resolution.

CHAIRMAN GREGORY:

Okay. So I withdraw my motion for Executive Session. We have a motion and a second on 2096. All in favor? Opposed? Abstentions?

LEG. ROMAINE:

Abstention. **APPROVED (VOTE: 3-0-1-1; Abstention, Legis. Romaine - Not present, Legis. Schneiderman).**

2106, Adopting Local Law No. -2010, A Charter Law to enhance transparency in County Budget process. (Cilmi)

Motion to table for a public hearing, seconded by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED for a public hearing (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2107, Adopting Local Law No. -2010, A Charter Law strengthening the budget adoption process. (Co. Exec.)

I make a motion to table for a public hearing, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2129, To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 839-2010). (Co. Exec.)

I make a motion to approve and place on the Consent Calendar, seconded by Legislator Losquadro. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2140, Authorizing the County Comptroller and the County Treasurer to transfer funds to cover unanticipated expenses in the 2010 Adopted Mandated Budget from the 2010 Adopted Discretionary Budget. (Co. Exec.)

I make a motion to approve.

LEG. D'AMARO:

I'm going to second.

CHAIRMAN GREGORY:

Seconded by Legislator D'Amaro.

LEG. D'AMARO:

But also just on the motion, I wanted to ask the Budget Review Office just very briefly to explain the next few resolutions. There seems to be some deficits in some of the funds and how we're paying or why they occur, if you would. Thank you.

MS. VIZZINI:

You are exactly right, Legislator D'Amaro. These are the customary end of the year housekeeping resolutions, these are the first few. On IR 2140, the significant shortfall is approximately a million dollars in family assistance in Social Services. And there are several small dollar amounts where

there are shortfalls in debt service, simply because you cannot calculate debt service to the penny. You can see from the backup that the shortfalls are in the thousands of dollars, not the hundreds of thousands of dollars. So the Budget Office has identified areas where there are surpluses. In certain areas we are transferring discretionary surpluses to mandated debt service.

On both those occasions, the Budget Director and the Director of Budget Review have to sign off to transfer discretionary to mandated. This resolution, 2140, is primarily the shortfall in Social Services. They're making up that shortfall by transferring surplus child care. So it's all within the Department of Social Services. The other are debt services in some of the sewer funds, the airport and the serial bonds in Fund 38, self-insurance.

LEG. D'AMARO:

Thank you. So can I ask you on that, the Social Services deficit is because the account that was funded through the budget in effect was depleted or used completely, so that has to be replenished from other areas where we may have run a surplus, that's what's happening?

MS. VIZZINI:

Yeah. There's supporting backup which I certified and signed where the line that's experiencing the \$1.8 million shortfall is for family assistance; the caseloads, etcetera, due to the economy. The expenses are estimated for 2010 to be 55.4 million as opposed to the 53.6 that was adopted in the budget.

LEG. D'AMARO:

Right. So those aren't salary lines or that type of line.

MS. VIZZINI:

No, they're program assistance.

LEG. D'AMARO:

It the actual assistance to Suffolk County residents.

MS. VIZZINI:

That's correct.

LEG. D'AMARO:

Okay. The other question I had is the deficit in the sewer district, it was my understanding that sewer districts were kind of self-contained from a budget point of view.

MS. VIZZINI:

Yes. And you can see from the backup that the surpluses are within those same funds.

LEG. D'AMARO:

All right. Thank you.

MS. VIZZINI:

You're welcome.

CHAIRMAN GREGORY:

Anyone else? Yes, Legislator Romaine.

LEG. ROMAINE:

At the end of the day, we have enough of a surplus to cover the shortfalls?

MS. VIZZINI:

Yes.

LEG. ROMAINE:

And how much of a surplus beyond that would we have?

MS. VIZZINI:

We really won't know until we get the February of 2011, because, as you know, contract agencies can still voucher their December expenses.

LEG. ROMAINE:

Right. What's the cutoff date for 2010 for vouchers to be processed? Usually every department head gets a notice.

MS. VIZZINI:

Yeah, there are cutoff dates, but I'm not exactly sure. I think it's some time in late December. But the key thing is when those were expenses incurred.

LEG. ROMAINE:

Right. We follow an accrual system. I was told that this is going to be some time in late January-early February that the cutoff for vouchers to come in for 2010 are permitted.

MS. VIZZINI:

I believe you're correct.

LEG. ROMAINE:

As a result, we really won't know. But you are confident that we have enough of a surplus to cover the deficits.

MS. VIZZINI:

To address these three resolutions, yes.

LEG. ROMAINE:

Right. Do we expect other shortfalls? Do we expect other deficits as we start to close out 2010?

MS. VIZZINI:

Yes. Precisely what they are, I don't know, but generally speaking, there's a reconciliation at the close of the year, of the fiscal year.

LEG. ROMAINE:

And you're confident at the end of the reconciliation that we will have sufficient surplus to cover any shortfalls.

MS. VIZZINI:

I'm hopeful. You're never really completely certain, but the recommended budget showed a General Fund fund balance of 22.7 million which is drastically less than our previous end-of-the-year fund balances have been. But I do think we have some wiggle room in here.

LEG. ROMAINE:

But the 22 million should be enough to cover all shortfalls?

MS. VIZZINI:

I'm very hopeful. Hopefully there will be a year-end fund balance as well.

LEG. ROMAINE:

Okay. And if there is limited fund balance, would you expect that fund balance to be the smallest fund balance, say, in the last ten years?

MS. VIZZINI:

We have some exact data we can share with you at a later time, but generally, yes, because of the economy, because of shortfalls in sales tax and property taxes, our fund balances have been declining dramatically, and this was fairly small.

LEG. ROMAINE:

So this is going to be probably the smallest fund balance in the last ten years.

MS. VIZZINI:

Generally speak, yes. If our data shows differently, we will get back to you.

LEG. ROMAINE:

And what does that mean for, let's project ourselves a year forward from now, the end of 2011? Going into 2011 with a very small, if any, fund balance, what does that mean for 2011 in terms of closing out 2011 if all things being equal? If we don't see a dramatic uptick in revenue or a dramatic decrease in expenditures, what would that mean?

MS. VIZZINI:

Well, the fact that the fund balance has decreased has been addresses in the 2011 Budget adoption process. We know what it was, we know what was carried over to lower the need for property taxes in 2011. 2011 is going to be a very challenging year in terms of getting through. The County Executive will have to manage the budget as he typically does by controlling expenditures.

We have a few revenue items that we don't have a lot of experience with; red light cameras come to mind, for one. Many of these things we addresses in our report to the Legislature, as you are well aware. So we will be monitoring that. Sales tax is still tenuous. We're hopeful for the holiday season, but we're not 100% confident that we're coming in in 2010 the way the budget reflects. But we're constantly --

LEG. ROMAINE:

And sales tax collections on internet purchases, I'm told, listening to economic reports, that sales at stores while they are slightly better than last year, but sales online are far better -- yesterday being "cyber Monday" -- than they were a year ago, what is our ability to collect sales tax from online internet purchases?

MR. LIPP:

We don't actually see the breakdown of the sales tax data between internet and non-internet. Obviously there are, you know, restricted laws in terms of what you can collect. For instance, if you have a physical presence in the state, then and you have to collect the sales tax, you being the vendor. But, you know, some of it does clearly fall through the cracks.

What you are saying implicitly is to the extent that internet sales are a greater growth rate is the extent that we won't realize as large an increase, but a significant increase. It remains to be seen whether or not we'll come in on budget yet. We won't know that until the February accruals, sometime in February. That being said, in terms of the fund balance, the last time we had a lower General Fund fund balance was in back in 2001 related clearly to 9/11. What happened at the end of the year, we didn't get what we expected. But since then, we had a study actually in 2003, we had one, two, three, four, five years in a row of over \$100 million fund balance surpluses. And then

the last three years, if you want to include this year, have been below that. And the adopted budget has \$22.7 million as a fund balance. We have been saying for years that we can't rely on the \$100 million plus fund balances. And depending on some ifs, ands or buts, you know, there are challenges in the 2011 budget, we could wind up seeing a deficit, not a surplus in 2011. Hopefully that will not come to fruition, but, you know, we're challenged.

LEG. ROMAINE:

Well, the economic report also said that stores are become antiquated, that in the next decade or so, stores will be something of the past that -- because so many people order online. I'm not a shopper, but there are ladies that shop on QVC, for example. Do you know that QVC now gets more of its business online than it does from its TV show? That says something to me, because I believe that collection of sales tax from internet purchases is extremely difficult in terms of collection or legality of collection of a sales tax from an online purchase. And that's something, since we're so sales tax dependent that I hope that your office, when things quiet down, take a look at that issue. And I would suggest that the County Executive's Budget Office takes a look at that issue.

One last item that I'd like to discuss very briefly, and you can get back to me on that, is red light camera revenue, something that I've been concerned about for the last year and a half. Originally, I believe \$6 million was projected for 2010, and because of the vendor not performing in a way that I was guess participated, that revenue was readjusted down to \$3 million. And when asked in September, I said that I didn't think that we would make even the \$3 million estimate.

Maybe at our next meeting you can give us an estimate through November 30th, you know, two weeks from today, because I don't believe that estimate is going to be met either. And then I have to ask myself about the vendor that we selected and the selection process and what the problem was and whether the selection -- who controlled where the red light cameras went, was it the vendor, was it Public Works and how much revenue we're actually getting from that and what was the delay in getting those red light cameras up.

So those are some questions that I'd like to ask you at our next meeting with the Chairman's permission on November 30th. Thank you, Mr. Chairman. Excuse me, as of November 30th, two weeks from now, because in two weeks you should have a revenue estimate as of November 30th.

CHAIRMAN GREGORY:

Thank you. I was afraid that Legislator Losquadro was going to cough on you if you continued just to keep you quiet. So do we have a motion? Okay. A motion and a second on 2140. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2141, Authorizing the County Comptroller and the County Treasurer to transfer funds to cover unanticipated expenses in the 2010 Adopted Discretionary Budget. (Co. Exec.)

I make a motion to approve, seconded by Legislator Losquadro. And again, Gail, these three motions are all housekeeping?

MS. VIZZINI:

Yes, they are, Mr. Chairman. The fiscal impact statement prepared by the County Executive's Office actually does a pretty good job of summarizing what's going on here. There are several contract agencies whose 2009 expenses are being paid from the 2010 Budget in the area of mental health. That's a combination of, you know, when grant monies were received and when vouchers were paid, etcetera, etcetera.

There was a shortfall in Social Security that is being made up by other -- the shortfall in Social

Security is estimated to be about a million dollars. It's being made up by decreasing the Benefit Fund and prescription drug claims, and others in the General Fund. There is also a \$500,000 shortfall in snow removal that's being made up by surplus in the EPIC Program.

CHAIRMAN GREGORY:

We have a motion, we have a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

2142, Authorizing the County Comptroller and the County Treasurer to transfer funds to cover unanticipated expenses in the 2010 Adopted Mandated Budget. (Co. Exec.)

I make a motion to approve, seconded by Legislator Losquadro. Again, Gail.

MS. VIZZINI:

This one is for the mandated expenses in Medicaid. The Medicaid cap payment is increasing by 6 million; family assistance, 800,000; Safety Net, 2,5 and HEAP by 130,500. Those shortfalls are being made up by surpluses in other -- from other mandated areas; primarily in Courts, Health and Sheriff.

CHAIRMAN GREGORY:

Okay. All right. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 4-0-0-1; Not Present - Legis. Schneiderman).**

Okay. That's our agenda. We stand adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 10:33 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY