

BUDGET & FINANCE
INFORMATION TECHNOLOGY
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 14, 2011.

Members Present:

Legislator DuWayne Gregory - Chairman
Legislator Jay Schneiderman - Vice-Chair
Legislator Ed Romaine
Legislator Tom Muratore
Legislator Lou D'Amaro

Also In Attendance:

George Nolan - Counsel to the Legislature
Jason Richberg - Aide to Legislator Gregory
Alicia Howard - Clerk's Office, Suffolk County Legislature
Gail Vizzini - Director Budget Review Office
Robert Lipp - Deputy Director - Budget Review Office
Craig Freas - Budget Review Office
Marge Acevedo - Presiding Officer's Office
Paul Perillie - Aide to Majority Caucus
Dennis Brown - County Attorney's Office
Catherine Stark - Aide to Legislator Schneiderman
Justin Littell - Aide to Legislator D'Amaro
Eric Kopp - County Executive's Office
Gerry Olson - Audit and Control Office
Gail Lolis - Deputy County Attorney
Dot Kerrigan - AME
All Other Interested Parties

Minutes Taken By:

Donna Catalano - Court Stenographer

Minutes Transcribed By:

Denise Weaver - Legislative Aide

[THE MEETING WAS CALLED TO ORDER AT 10:04 A.M.]

CHAIRMAN GREGORY:

Good morning everyone. Welcome to today's Budget and Finance and Information Technology Committee. We will have the Pledge of Allegiance led by Legislator D'Amaro.

SALUTATION

CHAIRMAN GREGORY:

Can I have a moment of silence. Today is Flag Day so in remembrance of our soldiers.

MOMENT OF SILENCE

CHAIRMAN GREGORY:

Okay, thank you.

Okay. We have -- we don't have any cards. Is there anyone in the audience that would like to make a statement please come forward. If not, [we will|well] get to the agenda. Okay, I guess not. All right. We have tabled resolutions.

TABLED RESOLUTIONS

IR 1228 - Adopting Local Law No. -2011, A Charter Law to establish a 2% Discretionary spending cap in Suffolk County. (Cooper).

This bill is in public hearing so it has to be tabled. So I make a tabling motion, second by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED FOR PUBLIC HEARING (VOTE: 5-0)**

IR 1247 - Adopting Local Law No. -2011, A Charter Law limiting annual increases in the County Expense Budget to no more than 2%. (Co. Exec.)

This is also needs to be tabled for a public hearing, second by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED FOR PUBLIC HEARING (VOTE: 5-0)**

IR 1397 - Directing the Department of Public Works to develop and issue an RFP for the sale and lease back of the H. Lee Dennison Building. (Romaine)

I make a motion to table.

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0)**

IR 1400 - Mitigating an anticipated budget shortfall by authorizing the sale of Suffolk County tax liens. (Kennedy).

I make a motion to table.

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?

LEG. ROMAINE:

Opposed.

LEG. MURATORE:

Opposed.

CHAIRMAN GREGORY:

Okay. **TABLED (VOTE: 3-2-0-0 Opposed: Legislator Romaine & Legislator Muratore)**

IR 1401 - Directing the County Executive to negotiate union concessions as a means of mitigating the budget shortfall. (Cooper)

I make a motion to table.

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0)**

IR 1414 - Adopting Local Law No. -2011, A Charter Law to require timely submission of budget amendments. (Cilmi)

This needs to be tabled for a public hearing, second by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED FOR PUBLIC HEARING (VOTE: 5-0)**

IR 1459 - Instituting a lag payroll in Fiscal Year 2011 for employees within the Suffolk County Board of Elections in Bargaining Units 21 and 24 to address revenue shortfalls and avoid a reduction in the workforce of County personnel. (Cooper)

I make a motion to table.

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Second by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED (VOTE: 5-0)**

IR 1460 - Authorizing a voluntary lag payroll for Elected Officials. (Cooper)

I make a motion to table.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Second by Legislator Schneiderman. All in favor? Opposed? Abstentions?

LEG. ROMAINE:

Opposed.

LEG. MURATORE:

Opposed.

CHAIRMAN GREGORY:

Opposed, okay. **TABLED (VOTE: 3-2-0-0 Opposed: Legislator Romaine & Legislator Muratore)**

INTRODUCTORY RESOLUTIONS

IR 1489 - Amending the 2011 Operating Budget to support the EAC-Suffolk County Children's Center at Cohalan Court. (D'Amaro)

LEG. D'AMARO:

Motion to approve.

CHAIRMAN GREGORY:

Motion by Legislator D'Amaro, I will second that motion. Yes.

LEG. ROMAINE:

Yeah, a brief explanation either by the sponsor or assistant Counsel.

LEG. D'AMARO:

This is part of the my Omni funding. And it's being moved over for -- to keep the daycare center open at the courthouse.

LEG. ROMAINE:

Thank you, again.

LEG. D'AMARO:

Sure.

CHAIRMAN GREGORY:

Okay, a motion, a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1492 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 855-2011). (Co. Exec.)

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

LEG. D'AMARO:

Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **APPROVED and PLACE on the CONSENT CALENDAR (VOTE: 5-0)**

IR 1493 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 856-2011). (Co. Exec.)

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

IR 1494 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 857-2011). (Co. Exec.)

Same motion, same second, same vote. **APPROVED and PLACE on the CONSENT CALENDAR**

(VOTE: 5-0)

IR 1495 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 858-2011). (Co. Exec.)

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

IR 1496 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 859-2011). (Co. Exec.)

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

IR 1497 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 860-2011). (Co. Exec.)

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

IR 1498 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 861-2011). (Co. Exec.)

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

IR 1499 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 862-2011). (Co. Exec.)

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

IR 1500 - To readjust, compromise, and grant refunds and charge-backs on real property correction of errors by: County Legislature (Control No. 863-2011). (Co. Exec.)

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

IR 1520 - To readjust, compromise, and grant refunds and charge-backs on correction or errors/County Treasurer By: County Legislature No. 355. (Co. Exec.)

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

IR 1522 - Amending the 2011 Operating Budget to support the Veterans of Foreign Wars Suffolk County Council. (Kennedy)

I make a motion to approve.

LEG. SCHNEIDERMAN:

Second.

CHAIRMAN GREGORY:

Second by Legislator Schneiderman. Yes, Mr. Kopp.

MR. KOPP:

Thank you. I just would like to go on the record as saying as worthy as the V. F. W. is as an organization, we've all been sitting through committee meetings and hearing about the devastation and the loss of State funding and how it's impacting the Health Department. So as worthy as the V. F. W. is, this is probably not a good time to be shifting money out of our County budget and providing it to another organization.

CHAIRMAN GREGORY:

So you don't have a problem with the offset? You don't have a problem with the offset?

MR. KOPP:

If that money is in our budget and we should keep it in our budget and maybe we could use it for something else down the road rather than give it to an outside organization.

CHAIRMAN GREGORY:

Okay. Gail, how much money are we talking about?

MS. VIZZINI:

This is for the Veterans Emergency Assistance Program that provides food, shelter and utilities on an emergency basis to discharged veterans. We're talking about \$10,000. The offset comes from two sources. One is DPW rent. Legislature Cooper's adverse circumstance; the fire and his displacement to the Vanderbilt Museum, we're actually saving about \$2500 a month there because they agreed to a rent that was much lower than what they were paying in Huntington. That constitutes about \$3168 of the offset.

The other offset is in Planning they passed a resolution earlier this year where verbatim minutes are no longer required for CEO. So there was 8000 available there. We're using 6832 of that.

CHAIRMAN GREGORY:

Okay.

MR. KOPP:

And the only real point that I was trying to get at is we keep scraping around looking for a dollar here a dollar there so we can try to continue on with some of the health services that we've been dealing with in committee. I know Chairman Gregory's been part of those discussions and he's heard some of the horror stories of what we're dealing with. I just wanted the record to reflect that.

CHAIRMAN GREGORY:

Okay, thank you. Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Yeah, related to that, I had gotten word this past week on the East Hampton health clinic where the group that owns that building charges us, I think, \$30,000 a year in rent and because I get a letter, something, communication from the County saying that they don't have the 30,000 to pay the rent and I guess there isn't money in the DPW rents line to take care of that. I was a little bit shocked because it doesn't sound like a lot of money to me. And maybe, Gail, where is the DPW rents line

and would passing a bill like this potentially jeopardize our ability to keep the clinic open?

MS. VIZZINI:

That's a very interesting point that you bring up. I think it was at the last or next to last Space Committee meeting where the -- as you know, Catherine's your representative to the Space Committee, Space Committee reacts to what's presented to it by the County Executive's Office. And the County Executive's Office presented the situation whereby there had been a change the -- I think the gist of it is that the East Hampton Housing Authority is now charging the town and therefore the town is passing on the cost, which was estimated to be about \$32,000 for rent for the space where the clinic operates. Heretofore there was no rental situation or payment of rent.

So I asked, actually, at the committee what the plan was in terms of where the money was going to come from and there was no specific answer either from the Health Department or the County Executive's representative, but it was never stated that there was no money.

LEG. SCHNEIDERMAN:

Okay. So does the DPW rents line have sufficient money that we could --

MS. VIZZINI:

That's hard to say. We haven't done a recent projection.

LEG. SCHNEIDERMAN:

Would that require a budget amendment or is there something that I would need to put through so I'd make that 32,000 available to make sure that clinic operates, you know, through the year without a problem.

MS. VIZZINI:

Yeah, I don't know, Eric, if you know what the status of the negotiations are in regards to that particular issue.

MR. KOPP:

I actually am not at all familiar with the issue, but be happy to check into it and get back to you, Legislator Schneiderman.

LEG. SCHNEIDERMAN:

You know, the building is owned by the Housing Authority and the town, back when I was the Supervisor, we spent about 600, \$700,000 converting the space to make it suitable for a clinic with the promise that the County would operate a clinic there and their agreement at the time, there was a certain number of years there would be no rent and then the Housing Authority at a particular point went up to a, whatever a fair market rent was, which I think is 32,000 a year. But it shocked me to hear that that was an issue, you know, it's gone through Space that the actually making the money available. I think Chris Kent somehow communicated through the Housing Authority that the County wouldn't be paying that rent and I don't understand it, but that's an issue we need to make \$32,000 available. And actually I'm concerned in light of I'd love to support the V.F.W. They do great work. This sounds like a terrific program. But I need to know if, you know, this might be at the expense of keeping a clinic opened as well.

MS. VIZZINI:

We'd have to ask DPW to do a projection and since they're working on their 2012 Operating Budget, they are in the process of estimating what they expect to spend out of that line, but if there's a -- just like any other line item in our 2011 Operating Budget, there will be shortfalls and there will be housekeeping resolutions to move surpluses to shortfalls and then, you know, as we get closer to April of 2012 you know how we really ended 2011. But if you like, I can ask DPW for their

projections in terms of whether there is sufficient monies in the line. Whether those monies are then used as Mr. Kopp is suggesting, not spent, and used in anticipation of offsetting some other priority is your policy decision.

LEG. SCHNEIDERMAN:

Well, I think what I'd like to do on this is to discharge without a recommendation, try to get that information before the general whether this might be impacting our health clinics and particularly that one whether there's a legitimate offset or whether there's money available in the rent line to cover that. I think as much as, you know, I love what the vet -- veterans -- the V.F.W. does, I think we have to focus on the County functions first.

So I guess I would make a motion to discharge without recommendation and then wait for that information from BRO.

CHAIRMAN GREGORY:

I'll second that and I'll withdraw my motion to approve. All in favor? Opposed? Abstentions?

DISCHARGED WITHOUT RECOMMENDATION (VOTE: 5-0)

IR 1550 - Tax Anticipation Note Resolution No. -2011, Resolution delegating to the County Comptroller the powers to authorize the issuance of not to exceed \$140,000,000 Tax Anticipation Notes of the County of Suffolk, New York, in anticipation of the collection of taxes levied for County purposes or returned to the County for collection for the Fiscal Years Commencing January 1, 2008, 2009, 2010 and 2011, and to prescribe the terms, form and contents, and provide for the sale and credit enhancement of such notes. (Co. Exec.) I make a motion to approve. Is there a second?

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Second by Legislator D'Amaro.

LEG. ROMAINE:

Question.

CHAIRMAN GREGORY:

Legislator Romaine.

LEG. ROMAINE:

Yes, maybe I can direct this to Budget Review. I'm reading what I have on the agenda and it says *for fiscal years commencing January 1, 2008, 2009, 2010 and 2011*. Since we're almost halfway through 2011 could someone explain that to me?

MR. LIPP:

These are delinquent taxes --

LEG. ROMAINE:

Okay.

MR. LIPP:

-- that are collateral basically for this borrowing. So, in other words, when that money comes in that will offset the borrowing.

LEG. ROMAINE:

Delinquent taxes because under the Suffolk County Tax Act if someone doesn't pay their taxes, we, the County make the other municipalities whole and assume that as a tax lien against that property that eventually, you know, if it's residential, commercial, industrial, depending there's different time schedules we'll eventually try to foreclose on that lien or sell that lien off.

MR. LIPP:

It's more than when the taxes come in. We get the cash. So we've already made other jurisdictions whole.

LEG. ROMAINE:

Right.

MR. LIPP:

This is not budget but rather cash so we have cash flow problems so when that money comes in that will presumably pay for this borrowing.

LEG. ROMAINE:

How long does it usually take for delinquent tax lien, delinquent taxes to be paid on average?

MR. LIPP:

Typically the usual scale that's shown and it goes down a higher percentage obviously the first year because not that many people are delinquent and it goes lower and lower for about five years. After five years it's, you know, a possibility to get the taxes but it's a very low amount left.

LEG. ROMAINE:

So what we're saying by issuing this essentially over the five years 2008 to 2011 we expect delinquent taxes to be equal to or exceed \$140 million. Is that correct?

MR. LIPP:

What we're saying that the outstanding delinquencies now for that period will be sufficient to cover this note.

LEG. ROMAINE:

What are the outstanding delinquencies for that period; ballpark?

MR. LIPP:

In excess of that I'm not exactly sure what the actual amount is, but Audit and Control does the analysis on it and they would not request the resolution that exceeded what would be allowable because they wouldn't be able to go to market for that.

LEG. ROMAINE:

We do know that. We do know that it's in excess of \$140 million in five years.

MR. LIPP:

Right and it's an analysis done by Audit and Control.

LEG. ROMAINE:

Okay. Keep that thought. I don't think we meet again until July 26th, but we're going to have a debate about John Kennedy's bill that was already on this agenda that we tabled because if we're doing delinquencies and we're carrying \$140 million in excess of \$140 million maybe we should rethink selling the tax liens. I've got to tell you, that's a lot of -- that a lot of delinquent taxes for

us to make other municipalities whole for. That's a lot.

So if someone wants to come forward from the audience, please.

MS. OLSON:

Gerry Olson from Audit and Control.

LEG. ROMAINE:

Right.

MS. OLSON:

I just want to point out that this is our normal DTAN borrowing that we do every year. And we're borrowing more than we usually do but our delinquencies, you know, even though they've gone up a bit we are collecting as we go along. So this is our normal DTAN that we do every year.

LEG. ROMAINE:

Which is even more reason that we have to consider John Kennedy's resolution because essentially what you're saying is that any five year period we're carrying in excess of 140 million, \$150 million that we're paying out other municipalities. I think I've made my point. You understand the point I'm making.

CHAIRMAN GREGORY:

Yup, yup.

LEG. ROMAINE:

Thank you very much.

CHAIRMAN GREGORY:

Just it's our normal -- it's a normal procedure but I think it's earlier than normal. Generally it's done later in the year; September, August.

MR. LIPP:

Correct.

CHAIRMAN GREGORY:

Right, right. And are the amounts the same?

MR. LIPP:

Actually it's September is usually the earliest that we borrowed in the past. I'm not exactly sure what the planned date would be for this. Gerry Olson would be able to say that; I assume.

CHAIRMAN GREGORY:

Okay.

MR. LIPP:

But, yes, this would be the largest. Last year we authorized 140 also but we actually did not borrow that much. We wound up borrowing 120. What this does it gives Audit and Control the authority to borrow up to 140 depending upon what our needs are. In a perfect world we wouldn't have to borrow the full amount though.

CHAIRMAN GREGORY:

Right. And the law allows us to borrow against our quote unquote collateral because it's perceived as future revenue, guaranteed revenue, even though they are delinquencies.

MR. LIPP:

Correct.

CHAIRMAN GREGORY:

Some point we will collect the revenue, whether it's a year, two years or whatever down the road.

MR. LIPP:

We're also required -- Audit and Control's required to restrict money that comes in to some extent to pay off these notes. So it is a short term cash infusion, but over the medium term as they're -- before they pay it off they have to restrict cash so they'll be able to pay it off. There are a lot of requirements.

LEG. ROMAINE:

Quick question. We're going out now, this is the earliest we've ever gone out with these tax anticipation notes. Is that correct?

MR. LIPP:

I believe so but I'm not sure what the expected date is for the issue.

LEG. ROMAINE:

Maybe we could have someone from Audit and Control. Is this the earliest we're ever passed this resolution?

MS. OLSON:

No, its not. In previous years in the 90's we did issue in September.

LEG. ROMAINE:

Okay. And this is for September issue?

MS. OLSON:

Yes, it is.

LEG. ROMAINE:

Okay. I'm just asking that question because we're doing it in June and not in August. So, all right. So this -- and I'm supporting this resolution -- authorized because I know we have cash flow problems. And I assume that's it. How soon does this have to be paid off, these tax anticipation notes? If we're going out with bonding in September, we're getting the money in September. We're getting all the money in September?

MS. OLSON:

Yes.

LEG. ROMAINE:

Okay. So we get in September. How quickly do we have to pay back that 140 million, let's say it's 140, 120 million, whatever it is that borrow, how quickly do we have to pay that back?

MS. OLSON:

We'll be paying it back in September of 2012.

LEG. ROMAINE:

So we have one year to pay this back. The note is a one year note.

MS. OLSON:

Yes, it can be less but we're going to schedule it to be a year note.

LEG. ROMAINE:

But in September of 2012 we could face another one of these resolutions and therefore we, I guess we pay it off, but we could also go to bond for the last five years from 2012, 2009.

MS. OLSON:

Yes, we do it every year.

LEG. ROMAINE:

Right, okay. Thank you.

CHAIRMAN GREGORY:

Okay. All right. We have a motion, right, and a second. Okay. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0)**

IR 1555 - Adopting Local Law No. -2011, A Local Law further extending first time homeowner County property tax exemption (Co. Exec.)

This has to be tabled for a public hearing, second by Legislator Schneiderman. All in favor? Opposed? Abstentions? **TABLED FOR PUBLIC HEARING (VOTE: 5-0)**

1557 - Amending the 2011 Operating Budget and authorizing the operation of the John J. Foley Skilled Nursing Facility (Browning)

I make a motion to approve, do I have a second?

LEG. SCHNEIDERMAN:

I'll second, but I'd like to hear --

CHAIRMAN GREGORY:

Seconded by Legislator Schneiderman. Gail, can you explain what this resolution does? Or BRO?

MS. VIZZINI:

Sure. There is an amended copy. I hope you all got it. It was amended yesterday. Basically what it does is it provides \$10.9 million in appropriations necessary to continue to run the Skilled Nursing Facility for the remainder of 2011. The dollar amounts came from the Health Department through the Budget Office. So we're generally in agreement, but not necessarily philosophically or policy-wise, that in the ballpark, this is the dollar amount.

The appropriations, as we have discussed previously, come from within the nursing home fund. They are being moved into the necessary line items. The resolution is balanced by additional revenue that will be generated from the operations, the predominant revenue source would be Medicaid. There's \$9.1 million in anticipated revenue for Medicaid; 548,000 from Medicare and another million-two from Adults in Public Institutions, which is the revenue associated with the Adult Daycare Program.

The amended copy at the request of the department actually added positions. As you know, technically, most of the positions in the nursing home were, in fact, abolished in the 2011 Budget in anticipation of the closing, and certain positions were continued to operate on a short-term basis.

In order to meet Federal/State mandates and deliver appropriate services, the department has

requested 13 positions be restored or created. They are itemized in the resolution and consist of Medical Records Administrator, Assistant Nursing Care Director, Assistant director of Nursing Home, four Registered Nurse Supervisors, a Registered Nurse, Dietetic Service Supervisor, Food Service worker and Supervisor of Medical Social Work and Adult Daycare Program Director.

CHAIRMAN GREGORY:

Okay. So although the nursing home was zeroed out in the budget, I think April 1, there was an extension. The mere fact that we have personnel there that can bring in or service clients, we're generating income from Medicaid and Medicare to cover our cost at the end of the year; is that what you are saying?

MR. FREAS:

Basically.

CHAIRMAN GREGORY:

Okay. All right. Just wanted to know. All right. Legislator D'Amaro.

LEG. D'AMARO:

Thank you. Is there anyone here from the County Attorney's Office? It's my understanding that -- I just want to know the status of the litigation involving the Foley Center. Hi, Gail. Good morning.

MS. LOLIS:

Good morning. Gail Lolis, Deputy County Attorney. As I understand, outside Counsel has advised, at some point yesterday, that the -- his motion to dismiss the plaintiff's appeal of the denial of the motion for preliminary injunction, that motion was denied. So the Court has extended the plaintiff's time. They've accepted their briefs, and they've given a date for the County to respond. In that order --

LEG. D'AMARO:

So that's, in effect, the motion that would have ended the lawsuit is now continuing, in effect.

MS. LOLIS:

No. That's the motion that was in the Appellate Division.

LEG. D'AMARO:

Okay.

MS. LOLIS:

There is still a motion in the Supreme Court that the County brought for summary judgement seeking to dismiss the action in its entirety. That is still pending. The Appellate Division also issued an order vacating the stay on the closure.

LEG. D'AMARO:

Just to go back to the Appellate Division, the initial motion was seeking what relief in the Appellate Division?

MS. LOLIS:

The initial motion sought to dismiss the appeal because the plaintiffs failed to file their briefs by the date that the Appellate Division required them to file it.

LEG. D'AMARO:

Okay. And that motion, in effect, has been denied, and the plaintiffs now have an opportunity to

submit and go forward in the Appellate Division.

MS. LOLIS:

After the motion was filed, the plaintiffs filed their briefs --

LEG. D'AMARO:

Right.

MS. LOLIS:

-- and then the Court -- the Appellate Division said they will accept the briefs and basically said, you know, in light of the fact that the stay has been vacated.

LEG. D'AMARO:

All right. So what is the relief sought in that appeal?

MS. LOLIS:

The plaintiffs are seeking to overturn Justice Baisley's initial decision, I believe it was back in February, which denied the plaintiffs a preliminary injunction on the closure.

LEG. D'AMARO:

Now, originally, when that motion had been made that's on the preliminary injunction, which was denied by the lower court, the Appellate Division had put in place a stay pending that appeal, but now, upon allowing the plaintiffs to go forward on the preliminary injunction issue, which the plaintiffs did not win at the lower court level, they've lifted the stay.

MS. LOLIS:

They actually lifted the stay on their own motion prior to the decision that I believe just came down. There were two decisions from the Appellate Division. They've referenced their earlier decision in this decision.

LEG. D'AMARO:

So that's interesting. The stay was lifted on the Appellate Court's own motion, and it wasn't part of the decision allowing them to go forward in the Appellate Division, the plaintiffs to go forward.

MS. LOLIS:

That's correct. The Court did it on their own motion because the plaintiffs failed to file their briefs.

LEG. D'AMARO:

What is the impact or effect of the stay being vacated? Are there any other stays in place at this point?

MS. LOLIS:

No.

LEG. D'AMARO:

Okay. And what exactly was that stay prohibiting, or what was the effect of that stay? What were we prohibited from doing and what can we now do?

MS. LOLIS:

It's my understanding -- I don't have the orders in front of me and outside Counsel's been handling it. It was my understanding that it was a stay on implementing the closure plan.

LEG. D'AMARO:

So at this point, there's no legal impediment to implementing the closure plan which would fulfill the

policy directive of our Operating Budget where the facility was closed or defunded rather.

MS. LOLIS:

That's my understanding as of yesterday, yes.

LEG. D'AMARO:

All right. And what I'd like to know -- and, Gail, I don't think you can answer this, but maybe Mr. Kopp could -- is just what is the administration's position now that the stay has been lifted?

MR. KOPP:

I don't know the answer to that because we haven't had any discussions about that in the last 24 hours.

LEG. D'AMARO:

Okay. And then I guess to Gail to Budget Review Office, even as a practical matter, even if that stay is now lifted and the facility has been defunded in the budget, as a practical matter, you know, what do we need to do? Do we have to fund it either way because there's just not enough time? You know, what is your position on that?

MS. VIZZINI:

Well, it's not what my position is, it's what the policy direction is. I wanted to add to the discussion by telling you that we are working cooperatively with the County Executive's Office. There are two RFPs going out, one from the County Executive's Office, again, to sell the nursing home. Whether we would have a more viable sale of an operating nursing home is something that I think we need to consider versus a closed-up/boarded-up structure is something that, you know, I would defer.

LEG. D'AMARO:

Although that's what the budget contemplated then in the sale of the assets themselves, right?

MS. VIZZINI:

The budget was presented for closure, yet the actions were that we -- the County Executive's Office went ahead, thought we had consummated a deal, and unfortunately, we did not have the sale.

LEG. D'AMARO:

But the enacted budget contemplated the closure, right?

MS. VIZZINI:

Yes. There is revenue in the budget, whether it will materialize is a very legitimate question from the sale of the closed asset.

LEG. D'AMARO:

Right. Because we'd have to sell -- what is it, the building or the land was contemplated in the budget, I believe, right?

MS. VIZZINI:

Definitely the building and the footprint.

MR. KOPP:

The license and the equipment.

MS. VIZZINI:

There is some issue whether we can sell the license for a closed facility, but that's more technical.

There is a second RFP that the County Executive has offered to prepare with the services of the Law Department and the Health Department, and that is for a private/public partnership, whereby, not necessarily that we would downsize the nursing home, but in order to attract other health delivery services in that facility, there is that option there where we could downsize as long as we have a public nursing home and we have other health-related facilities operating out of that structure. The idea there is that there would be revenue generated from the other entities that would help close the gap, you know, that six to \$8 million General Fund support that goes to the nursing home.

So whether -- if you are going to run it for the end of the year because there is some desire that you have an operating business that you can either sell or market as a private/public partnership, you need appropriations in the right place to fund it. Unlike the unknowns with the budget, continued operation would generate the necessary revenue to balance the cost of operating.

There is no question that -- that the General Fund would be shorted if we don't either sell or generate new revenue stream the way the budget was constructed.

LEG. D'AMARO:

Okay. All right. Thank you for answering. That's very informative.

CHAIRMAN GREGORY:

Sure, Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Legislator D'Amaro asked this question to Mr. Kopp, maybe -- Ms. Lolis, are you aware, is the County Executive or his administration taking any steps to facilitate a closure of that facility in light of the lifting of the stay?

MS. LOLIS:

I have no idea.

LEG. SCHNEIDERMAN:

No idea. Okay.

CHAIRMAN GREGORY:

I guess my question would be since the administration is looking to possibly sell the facility, do we have to go through the whole public hearing process, or has that requirement been met? And if so, how long does that, I guess, window remain open? That's a legal question. Do you know?

MS. LOLIS:

I'm not exactly sure of the answer to that. And I know that's something that my office has been looking into, but I don't know what the answer is. I think it depends on what they are going to do.

CHAIRMAN GREGORY:

Okay. All right.

LEG. D'AMARO:

Mr. Chair.

CHAIRMAN GREGORY:

Yes.

LEG. D'AMARO:

Just what I'm thinking about is, in effect, this resolution is going to fund -- help to fund the center

and operate it, restore some positions. My concern is only that if the County Executive is going forward with closure, then, you know, to change our budget at this point, that would be inconsistent with the closure. And so I'm kind of curious, you know, what's the policy direction? I understand, you know, we're working on some RFPs, public/private partnership, perhaps another sale. Maybe it makes more sense to keep the facility open and viable rather than trying to market the facility. But the fact does remain that there's a policy document out there, namely, our budget that closed the facility, and there's no legal impediment to doing so.

So it would helpful to know in deciding whether to support this resolution whether or not that would be wasteful in effect if we're going to close the facility. Because I think this resolution would, in effect, reverse the policy decision made in the budget at this point, because you're, in effect, providing funding where there was none. Would that be accurate, Gail, do you think? I mean, are we reversing the budget decision by funding the center at this point?

MS. VIZZINI:

Well, no sooner did we adopt the budget, Legislator D'Amaro, then we reversed what was happening in the budget. There was still ongoing negotiations relative to the sale of the facility, which I think went right up to the end of December of 2010.

LEG. D'AMARO:

I don't think we ever reversed the policy decision made in the budget itself. I think what we -- what I was doing was making my decisions going forward based on the fact that there was a stay in place that prevented us from going forward with what the budget was directing to happen, and as a result, that was influencing my position on some of the bills that came up.

Now, I'm not saying that I'd be opposed to providing the funding for the rest of the year. I think from policy perspective it may make more sense, if we're going forward with these RFPs, to keep the facility running. But again, I just -- I don't understand whether or not we should be providing funding if, in fact, the intent is to go ahead and close the facility. We don't seem to have an answer to that question. So I think what I'm going to do is abstain on this today, because I just -- it's not that I don't want to fund the facility if it makes more sense from even a business and marketing perspective to do that, but I just feel like I don't have enough information to make that decision today.

CHAIRMAN GREGORY:

Okay. Legislator Schneiderman.

LEG. SCHNEIDERMAN:

Well, you know, this body certainly never took a formal vote on closing the facility, although, you know, in the budget process it ended up not having the votes to override the veto on that portion. I believe that my colleagues were voting some of them believing that there was a sale imminent. And without that sale imminent, I think the result would be quite different. I don't think there is a consensus toward closing it. Selling it -- and, you know, I supported the vote ultimately to sell it, but not to close it.

So I think what we have to do, what's prudent at this point is to fix the budget, show the money in it since we don't have a viable purchaser at this point until such time that we do. And, again, we'll have the policy conversation about whether whatever this new entity purchasing, whether it's public or private is the right entity. But this gives us -- this puts us in the driver's seat by having the money in the budget. It's unfortunate that we have a hole in the budget because the sale did not go through and now we have, what does it amount to, about a \$5 million hole because of that?

MS. VIZZINI:

Twenty.

LEG. SCHNEIDERMAN:

Twenty million?

MS. VIZZINI:

Correct.

LEG. SCHNEIDERMAN:

Because of the buildings as well. But in terms of the operation revenues, etcetera? I thought basically --

MS. VIZZINI:

Well, the gap in terms of the nursing home being able to be self-sustainable and self-supporting is between six to \$8 million.

LEG. SCHNEIDERMAN:

Okay, six to eight.

MS. VIZZINI:

But the way the budget was constructed --

LEG. SCHNEIDERMAN:

But we also plugged in, into this year's budget, the money from the sale.

MS. VIZZINI:

Correct.

LEG. SCHNEIDERMAN:

Right. So we have a larger hole in the budget.

MS. VIZZINI:

And balanced the General Fund based on the revenue that would be generated from the sale of either the operating business or the closed facility.

LEG. SCHNEIDERMAN:

Right. So we have a large hole to fill. This just covers the operational piece of the nursing home itself, right?

MS. VIZZINI:

This is your insurance policy that there is a viable business that either -- that the RFP that is going for the outright sale or the RFP that is going for the private/public partnership as opposed to --

LEG. SCHNEIDERMAN:

But the resolution itself doesn't address the other piece, the shortfall caused by not selling it, but this puts the money in place to operate it.

MS. VIZZINI:

Yeah. It takes the money -- it moves the appropriations from within the nursing home fund to the right places so that it can operate, and only through the end of the 2011. You may be faced with the 2012 Budget with the same policy decisions.

LEG. SCHNEIDERMAN:

Thank you.

CHAIRMAN GREGORY:

Okay. All right. All right, so we have a motion and second. All in favor? Opposed? Abstentions? Recusal?

LEG. ROMAINE:

Recuse.

LEG. D'AMARO:

Abstain.

CHAIRMAN GREGORY:

Three approved, one abstention, one recusal. Okay. Motion passes. **APPROVED (VOTE: 3-0-1-0-1; Abstention - Legis. D'Amaro; Recusal - Legis. Romaine)**

1568 - Resolution No. -2011 Extending existing one percent sales and compensating use Tax for the period beginning December 1, 2011 and ending November 30, 2013 pursuant to the authority of section 1210 of Article 29 of the Tax law of the State of New York (Co. Exec.)

I make a motion to approve.

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Second by Legislator D'Amaro. On the motion, Legislator Romaine then Schneiderman.

LEG. ROMAINE:

We're looking to extend the sales tax to 1% of the sales tax beginning December 1. Why are we considering this in June? Why are we not considering this closer to December 1?

MR. LIPP:

It's a timing thing.

LEG. ROMAINE:

Okay.

MR. LIPP:

Its a good idea to get it done now so we could get the approval with the State.

LEG. ROMAINE:

And of course we need this revenue.

MR. LIPP:

It amounts to approximately \$264 million.

LEG. ROMAINE:

So there's now question we need this revenue and we all have to vote to keep this 8.625% sales tax level going.

MR. LIPP:

I don't know about the "have to" but we do need the money.

LEG. ROMAINE:

"Have to", okay.

MR. LIPP:

I mean the "have to" in terms of voting.

LEG. ROMAINE:

All right. Thank you.

CHAIRMAN GREGORY:

Legislator Schneiderman.

LEG. SCHNEIDERMAN:

I don't know who can answer this, my first question is is there an effort in Albany that'd make this permanent and not -- this is every two years we have to renew this. Right?

MR. LIPP:

Correct.

LEG. SCHNEIDERMAN:

So is there an --

MR. LIPP:

There is discussion in Albany but I don't know.

MR. SCHNEIDERMAN:

Okay. This is actually the section of the sales tax which contains the one eighth to three eighths for Public Safety and well and language at the State level that has made my job here a lot harder because it doesn't afford the protection, the equitable distribution of sales tax that's used in special tax districts, particularly the Suffolk County Police District.

MR. LIPP:

This is the 1% that applies to the Public Safety revenue sharing.

LEG. SCHNEIDERMAN:

Right. So is there any -- has the State changed the language in any way, is this the identical extension? Have they made any changes to it?

MR. LIPP:

Not to my knowledge.

LEG. SCHNEIDERMAN:

All right. So I'll still have to wrestle with it here at the horseshoe to try to make sure we get fair distribution of sales tax throughout the County.

MR. LIPP:

It appears that way.

LEG. SCHNEIDERMAN:

It appears that way.

LEG. ROMAINE:

If I may, Mr. Chairman. I think Legislator Schneiderman has an excellent point. You know, maybe we should table this for one cycle and hold off on this and allow Legislator Schneiderman to do whatever negotiations he feels is appropriate. Would that be something that you would favor?

LEG. SCHNEIDERMAN:

I mean, I like the idea but I'm also concerned because we, you know, we don't meet in July. The next meeting, I guess, will be in August.

LEG. ROMAINE:

August 2nd.

LEG. SCHNEIDERMAN:

It may be too late to actually get the State to act on it.

CHAIRMAN GREGORY:

The State has already passed the bill.

MR. KOPP:

If I might, yes, both houses have already passed it up in Albany.

CHAIRMAN GREGORY:

Right.

LEG. ROMAINE:

So it has acted on it, it's just a question that we have to act on it.

LEG. SCHNEIDERMAN:

Right. So it's not like we're not going to turn to them. We're going to have to deal with it as a County issue and make sure we have something statutorily in place that guarantees the fair distribution of sales tax. That's the only way we're going to be able to deal with it. The State's already beyond it now. So it doesn't matter.

LEG. ROMAINE:

Okay. So it doesn't matter. Thank you.

CHAIRMAN GREGORY:

Okay. We have a motion and a second. All in favor? Opposed? Abstentions? Okay. That does it for our agenda. We stand adjourned. Thank you.

[THE MEETING CONCLUDED AT 10:52 A.M.]

{ } DENOTES BEING SPELLED PHONETICALLY

