

**GOVERNMENT OPERATIONS, PERSONNEL, HOUSING
& CONSUMER PROTECTION COMMITTEE**

OF THE

SUFFOLK COUNTY LEGISLATURE

MINUTES

A meeting of the Government Operations, Personnel, Housing & Consumer Protection 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 November 15, 2012.

MEMBERS PRESENT:

Leg. Robert Calarco, Chairman
Leg. William Spencer, Vice Chair
Leg. Kate M. Browning
Leg. Thomas Cilmi
Leg. Edward P. Romaine (Absent)

ALSO IN ATTENDANCE:

Sarah Simpson, Assistant Counsel to the Legislature
Renee Ortiz, Chief Deputy Clerk
Benny Pernice, Budget Review Office
Samuel Chu, Commissioner/Labor Department
Robert Meguin, Commissioner/Consumer Affairs
Tom Melito, Deputy County Executive/Performance Management
Liz Pearsall, Director of PERB
Ben Zwirn, County Executive's Office
Joe Cohen, County Attorney
Dennis Brown, County Attorney's Office
Tom Vaughn, County Executive Assistant III
Chris DeLuca, Aide to Leg. Cilmi
Paul Perillie, Aide to Leg. Gregory
Lora Gellerstein, Aide to Leg. Spencer
Amy Keyes, Aide to Leg. Calarco
Charles Gardner
Mary Curtis
Victoria Danisi
Cecelia Danisi
Paul Caplan
Michael Watt

MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 12:32 PM

CHAIRMAN CALARCO:

Can I have all Legislators to the horseshoe, please?

We are going to get started with the Committee here if I can get everybody at the horseshoe shoe, please. Okay. We're going to start the Government Operations Committee. If we can all please stand for the Pledge of Allegiance led by Legislator Cilmi.

SALUTATION

Thank you. Okay, thank you everyone for coming to the Committee. I do not have any cards. Is there anybody who would like to speak from the audience; would like to address the committee?

PRESENTATION

Okay. Seeing none, I'm going to move right into the presentations. We have with us here today Commissioner Samuel Chu as well as Director Bob Meguin from Consumer Affairs. They're going to talk to us a little bit about the plans that the County Executive's Office has for the merger of their two Departments and how this is going to function. I know Mr. Melito from Performance Management was going to be here. Perhaps he's been held up. I know he's suffering quite a bit of damage to his home as a result of the Super Storm Sandy so I can understand that he has more pressing needs.

COMMISSIONER CHU:

Thank you, Legislators, Chairman. I'll try and move through this so we leave time for questions. We did have -- we did have the opportunity to go through this a little bit during the Budget Hearings, but I want to give a little -- bring a little more granularity to what the proposal means and the benefits that it's going to bear to the County and to the Departments and to the constituents of Suffolk County.

We're actually, you know, it's being considered -- it's considered consolidation, but it's actually a reintegration of sorts. The Department of Consumer Affairs actually began in 1971 when the County Legislature passed the Occupational Licensing Law in the plumbers and electricians -- and it was originally -- it was originally part of the Labor Department. So the -- it does have its genesis with the Department.

The two things that we're really trying to address here are that the Suffolk County Department of Consumer Affairs is no longer able to provide its historically high level and high quality of service to its constituency, which is -- as we see it, not just consumers but also the legitimate businesses in the County, which we all know we're experiencing a difficult time before Sandy. And I think Sandy is now making it a difficult time for just about everybody.

CHAIRMAN CALARCO:

I see Mr. Melito is here. Tom, if you want to come on up and join Commissioner Chu and Commissioner Meguin at the dais here. Commissioner Chu got it started here.

COMMISSIONER CHU:

If I didn't have any heat or electric in my house, I'd be here, too, so (laughter). It's warmer here than --

MR. MELITO:

Who has a house?

COMMISSIONER CHU:

Right. And the razor's not working either.

MR. MELITO:

Not until I go home.

COMMISSIONER CHU:

So by merging the understaffed Consumer Affairs Department which -- the understaffing at Consumer Affairs is something that's been heard by this body many times before -- and with the County Labor Department, we strongly believe that the Consumer Affairs activities and functions will be bolstered and supported by a strong infrastructure that exists in the Labor Department for several different -- with several different functions; and also synergies that we could eliminate duplication and maximize some of the personnel -- the existing personnel at Consumer Affairs.

So I just want to do a quick overview what the Labor Department's mission is and what the Consumer Affairs' missions are just to express -- I know I've had questions over the last couple of months about, you know, why these two Departments, why do they fit together, you know, what's the relationship there?

So the Labor Department, we maintain liaison -- currently we maintain our liaison to the building trades, unions, trade organizations, both union and nonunion including electricians and plumbers, which is a major focus of licensure by the Consumer Affairs Department. We also have strong relationships with County businesses through our Business Services unit. A lot of our Federal grant funding that we use is geared towards business enhancement. And we've also acted as an intermediary between labor force and management should disputes arise. It's an inherent function of the Department; in addition to providing quality job training, job development and placement of supportive services for unemployed, underemployed as well as the public assistance populations. And as I stated we strongly support the business community through not just guidance and hiring services, but also financially through on-the-job training grants and connection to State and Federal tax credits.

The Consumer Affairs Department: Its mission is to promote health, safety and economic wellbeing of the business community, the regulated businesses that fall under its purview, as well as a fair market for the constituents, to make sure that they're being served well when they hire licensed contractors. And we're promoting -- it promotes high standards of integrity and ensures that there's equity in the marketplace when it comes to occupational licensing industry.

Local law regulation and enforcement, you know, one of the things that the Department has had difficulty doing is ensuring that licensed contractors who do pay a fee to be licensed, we want to ensure that they're getting value from being licensed in this County by not having to compete against those who are not licensed. So enforcement is certainly an issue in that regard.

Some of the trends that we've seen with Consumer Affairs is, over the last several years, reduction in staff, you know, largely due to attrition, you know, reduced licensing fees in the form of -- not the actual fees themselves but in reduced revenue because less licenses are being issued in part due to the, of course, the economic recession; reduce inspections. And we have seen increased complaints, which could be symptomatic of all those things of the reduced staffing, the ability to do enforcement as well as reduce licensing, which, you know, could be symptomatic of more unlicensed business happening.

So we believe in a strong synergy between the two departments because of some of the strong functions that are being performed by the Labor Department now that can -- that can very easily absorb some of the functions that are lacking in Consumer Affairs or stretched, at best. These include personnel in the Labor Department; has a personnel unit that performs personnel functions,

you know. I don't think Consumer Affairs has had a dedicated personnel person for sometime. We have a very strong finance unit, who is very good at doing reporting. A lot of our -- our Department is very -- needs to be very on-the-money when it comes to our finance unit because we do have so many funding sources from State as well as competitive grants as well as our formula funding we get from the Workforce Investment Act.

We have IT resources, which are also -- are slated to be included in the federated approach from Performance Management, but they're still going to remain resources that are on-site that will certainly be able to add capacity to Consumer Affairs. Because I think everyone's in agreement that Consumer Affairs is in dire need of some technology enhancements that cannot only make personnel more efficient, but certainly serve the purpose better and expedite a lot of the functions that it needs to perform.

The Labor Department I'm proud to say -- and I want to stop there for a second, just to good kudos to the staff of the Labor Department. I came on in January and I'm extremely impressed with the performance and the function of the personnel in the Civil Service Department. And one of the units that has been particularly impressive is our Grant Development Unit, which has been successful in leveraging millions of dollars of Federal funding and State funding into Suffolk County because of their efforts. And this unit can now also be writing grants for Consumer Affairs and for business regulation, which exists. So I think that's a -- I think the County as a whole with the situation we're in financially, any money we can leverage in from outside sources through competitive grants, and in some cases, formula grant funding that we're not aware of, we should maximize that to the best we can.

We also have a Communications Officer, which Consumer Affairs does not have. When it comes to serving consumers, I think it's really important that we be able to properly and effectively communicate to the public from everything when -- you know, throughout this situation -- throughout the last couple of weeks we had, when we had situations of potential unconscionable business practices taking place, or getting out the word that -- when people may be desperate to have things done to improve their home, but to make them aware that they should be using licensed contractors to do that work. And let them know that there's a place that they can check that and let know what things are licensed.

The Labor Department currently houses the Local Law Compliance Unit, which -- which we think the enforcement of certain local laws is very synergistic with enforcement of some of the Consumer Affairs regulations. So we think that Local Law Compliance Unit will dovetail very nicely with some of the existing Consumer Affairs functions.

Conflict resolution: This is one of the most glaring needs at Consumer Affairs. There's been a system in place for Consumer Affairs for as long as I think anyone can remember. I think it's always been that way; where the Consumer Affairs Investigators actually, when they're writing violations, they're actually following up with their own hearings. There's no firewall between those who are out writing violations and those who are actually resolving them, which we think is both an issue in terms of providing good service to the consumer as well as to the businesses that might find themselves in violation and want to have a conflict -- want to get resolution to a conflict in a fair manner.

The Labor Department currently has labor mediation staff, who are certainly qualified to oversee these hearings; probably better qualified than the investigators themselves. And this is an important piece of freeing up the existing staff and making more effective and efficient what they should be doing, which is going out and doing enforcement of the Consumer Affairs regulations so they won't be bogged down doing hearings.

The intention here with some of the new part-time positions that we're adding, in addition to

shedding this -- the conflict resolution responsibility, is I think we can -- we can free up the investigators from 20% of their current duties on the back end with the hearings; and on the front end with some of the basic administration and also vetting out of leads and vetting out of cases so they can be freed up to do 100% -- so that a 100% of their time can be dedicated to doing what they're function should be, which is enforcing these -- which is going out and enforcing and following up on Consumer Affairs' violations.

The Labor Department: We're in the business of connecting businesses to job seekers. And by being able to have a relationship with Consumer Affairs and the thousands of licenses, the thousands of licensees through the Department, this is going to give an unprecedented opportunity for us to connect those businesses not only with job seekers, but also with the business support services that the Department offers and make sure that the businesses that we're licensing that are doing businesses legitimately in Suffolk County, are being rewarded with us making sure they're aware with the best programs to help their businesses succeed and benefit from the training programs that we -- that we accommodate in the Labor Department, making sure that we're matching up training programs to suit the needs of those businesses that we license.

And, again, this is the One Stop Employment Center (indicating). It's pretty much -- becomes a one stop shop. We do inhouse hiring, you know, one stop center. So any business that comes in now from Consumer Affairs, it gets licensed and conceivably a lot of businesses that are getting licensed initially are going to be new businesses who are going to need quite a bit of support and are going to need to hopefully higher people. And we can make that connection. And we can possibly even schedule them right on the spot when they get licensed for connecting them to the Labor Department's resources to help them higher the right people for the positions they need filled.

There's a considerable amount of public benefits that would come of this consolidation. I previously said, improved conflict resolution process, improved business support services, connection to job seekers and, again, building upon and growing the one stop employment model.

So with that I'm going to close. And I'll be glad to answer any questions, as well as my counterpart, Commissioner Meguin, any questions that Legislators may have.

CHAIRMAN CALARCO:

I'm not seeing any questions from my colleagues. Commissioner, so thank you very much for the presentation. It was very thorough. I know it came on the heels of the previous public hearings when you presented a bit of it. So I thank you. And for you, Mr. Meguin, actually I've heard from quite a few employees and other individuals who've come across you during your time at Consumer Affairs, and they've all said nothing but good things. So I want to thank you for your service in the County.

Legislator Browning.

LEG. BROWNING:

Yeah, again, I want to say thank you, Commissioner Meguin, because the -- I'm trying to think what the fund is for residents who are --

MR. MEGUIN:

Contractor Restitution Fund.

LEG. BROWNING:

The Restitution Fund. Thank you. Yes. I have a very happy constituent because of the work that you've done to help. She had waited a long time and finally got the restitution. And I know that's something that you're aggressively looking at that, you know, we should be looking at people in the past who maybe didn't get from the Restitution Fund that probably -- probably should have. And is

there a possibility that -- is there a timeline that you can go back and look at some past cases to see if anyone didn't get that should have receive?

COMMISSIONER MEGUIN:

Yeah, actually our current law says you must file an application for restitution within two years obtaining a judgement from a court of law. So, yes, it has been a problem, I perceive, in the past.

LEG. BROWNING:

Okay. Because I know that there's over the past couple of years there's been some issues with constituents of mine. And, you know, contractors coming in, doing jobs that, you know, not fulfilling their end of the bargain. But I appreciate everything you've done. I'm hearing very positive things. Thank you.

COMMISSIONER MEGUIN:

Thank you.

CHAIRMAN CALARCO:

Legislator Cilmi.

LEG. CILMI:

Yeah, just for Commissioner Meguin, general question, not specific. With respect to storm-related troubles that folks have had, for example, if you owned a catering hall and your catering hall was devastated as a result of the storm and yet you had weddings or events, whatever, booked at that catering hall, how are those issues being managed? And how do you bring balance to, number one, the importance of the folks who entered into a contract and made down payments on their events and whatnot, getting them their money back, while at the same time being cognizant of the fact that people lost their livelihoods.

COMMISSIONER MEGUIN:

Yeah. Well, actually, Legislator Cilmi, we have three pending complaints that we have received.

LEG. CILMI:

One from my office, I believe.

COMMISSIONER MEGUIN:

Probably. At least two, I believe. And they deal with caterers that were in the devastated areas. Frankly, it's a problem, because our current law does not address that. It talks about cancellation by the consumer with a -- and it attaches certain fees that the caterer may retain. The typical contract of a caterer probably has a Act of God Clause, which -- what I -- at least trying to do is contact the caterers and see if we can work something out. And if we can't voluntarily mediate that, the only option really would be a breach of contract actions seeking the refund of the down payment. But, you know, it is a a problem.

I'm trying to -- it's really not covered by our particular local law. And although I just recently got one yesterday that falls in a different category, but I think the only active advocacy I could play on the part of the consumer is to try to, as you point out, balance the issue between the caterer and the consumer. Because there are no winners in that situation either way.

So that's what's -- I perceive is going to be -- at least my role in trying to voluntarily mediate that and try to make both parties as whole as possible, although it's probably not, you know, practically speaking, going to be truly accomplished to the satisfaction of either party.

LEG. CILMI:

Right. Okay, thank you very much. That answers my question.

CHAIRMAN CALARCO:

Okay, great. Thanks. And I don't have any other questions so, gentlemen, thank you very much for coming today. We appreciate it. And we're going to move right onto the agenda.

COMMISSIONER CHU:

Thank you.

TABLED RESOLUTIONS

CHAIRMAN CALARCO:

Okay. Starting with Tabled Resolutions, I have **IR 1580, authorizing elected officials to make immediate contribution for health insurance. (Cilmi)**

LEG. CILMI:

Motion to approve.

CHAIRMAN CALARCO:

Motion to approve by Legislator Cilmi. I have a motion to table by Legislator Spencer. I'll second the motion to table. I guess, you know, at this point we're going to -- I guess we have the option to do this if we want. The Comptroller's going to be ready to do this -- what are the latest numbers that we heard from them? Were they saying -- January is what they're saying most recently is being whispered in my ear?

LEG. CILMI:

Honestly, I don't know.

CHAIRMAN CALARCO:

Because that's when any of the new employees have to -- that come on that'll be paying into the healthcare. They'll be paying as of January 1st. As of the new agreement, I think, we have in our Bargaining Units.

LEG. CILMI:

So at that time elected officials will have the ability to --

CHAIRMAN CALARCO:

By that time they'll have the numbers worked out and know exactly what it is they're going -- then we would be able to elect to pay.

LEG. CILMI:

Okay. So let's pass this bill, then; it gives us officially that -- that authority.

CHAIRMAN CALARCO:

(Laughter) Well, I think we unofficially have that authority to do that now. So we have a motion and a second.

LEG. BROWNING:

I'll second his motion. How's that?

CHAIRMAN CALARCO:

Oh, Legislator Browning seconds the motion to table. All right. Well -- seconds to motion to approve, excuse me. So we have a motion to table with a second. And we have a motion to approve with a second. And the tabling vote goes first. All those in favor? Opposed?

LEG. CILMI:

Opposed to tabling.

LEG. BROWNING:

Opposed.

CHAIRMAN CALARCO:

I have two opposed. Abstentions? I have none. So the tabling motion fails. The motion to approve is next. I have a motion and a second. All those in favor? Two in favor? All those opposed?

LEG. SPENCER:

Opposed.

CHAIRMAN CALARCO:

Opposed. Motion fails. And I have no other motion so I guess that's that.

Okay, moving on, **IR 1698, Adopting a Local Law No.-2012, A Local Law to amend post-employment restrictions. (Schneiderman)** Is the Public Hearing closed on this?

LEG. SPENCER:

Motion to approve.

CHAIRMAN CALARCO:

I have a motion to approve by Legislator Spencer. I'll second the motion. Counsel, could we have an explanation?

MS. SIMPSON:

This resolution was put in so that the post employment restrictions that are typically on County employees with respect to appearing before the agency they worked for is waived if they have -- been terminated by the County for -- without cause so -- because of, you know, layoffs.

CHAIRMAN CALARCO:

Was this -- so this was to help some of those employees in DPW who may have fell victim to the layoffs and to make sure that they wouldn't be harmed and be able to find employment with outside companies?

MS. SIMPSON:

Correct.

CHAIRMAN CALARCO:

It's a little late in coming on this one. What have we been waiting for? We let people go in July. Okay. I have a motion and a second. All those in favor? Opposed? Abstentions? **1698 is approved. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 1803, Adopting Local Law No. -2012, A Local Law to eliminate item pricing fee. (Cilmi)

LEG. CILMI:

This still has a public hearing opened. So motion to table.

CHAIRMAN CALARCO:

Okay, I have a motion to table by Legislator Cilmi. I will second the motion for the public hearing. All those in favor? Opposed? Abstentions? **IR 1803 is tabled. (VOTE: 4-0-0-1. LEG.**

ROMAINE ABSENT)

IR 1815, Establishing County Policy to maximize savings through Early Retirement Incentive Program. (Kennedy) I'm going to make a motion to table.

LEG. SPENCER:
Second.

CHAIRMAN CALARCO:
Second by Legislator Spencer.

LEG. CILMI:
On the motion.

CHAIRMAN CALARCO:
On the motion. Wasn't this resolution withdrawn?

LEG. CILMI:
That was going to be part of my question. And if it wasn't, didn't we really -- I mean now that the Budget is done, does this negate this?

CHAIRMAN CALARCO:
Well, that's -- I think that's why -- that is the reason I was making a motion to table. I think both this and the next one are -- kind have been handled by the Budget at this point in time. Is this one withdrawn, does the Clerk know? I thought one of these were. No? Okay. She's looking.

On the motion to table subject to call by Legislator Spencer, I will withdraw my motion and I'll second his, given that this has been handled in the Budget at this point in time. All those in favor? Opposed? Abstentions? **IR 1815 is tabled subject to call.**

LEG. CILMI:
Opposed.

CHAIRMAN CALARCO:
I have one abstention. Opposition. Excuse me. **(VOTE: 3-1-0-0)**

IR 1911, Amending the 2012 Operating Budget and establishing a County Policy to maximize savings through the Early Retirement Incentive Program. (Kennedy)

LEG. SPENCER:
Motion to approve.

CHAIRMAN CALARCO:
Motion to approve by Legislator Spencer. I'm going to make a motion to table. I think this one is very similar to the previous and just a different version that Legislator Kennedy has put in. But, again, I think it's been handled in the Budget already.

LEG. SPENCER:
I'll withdraw my motion to approve.

CHAIRMAN CALARCO:
Okay, Legislator Spencer withdraws his motion to approve and seconds my motion to table.

LEG. CILMI:

Are we tabling subject to call or just tabling? If you table, I'll support the tabling motion.

CHAIRMAN CALARCO:

I have it just to table it.

LEG. CILMI:

Okay.

CHAIRMAN CALARCO:

Just to table is what I'm doing. Okay? All those in favor? Opposed? Abstentions? **IR 1911 is tabled. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 1919, Adopting Local Law No. -2012, A Local Law terminating the Suffolk County Public Employment Relations Board. (County Executive) I'll make a motion to approve for discussion.

LEG. CILMI:

Public Hearing is closed on this?

LEG. BROWNING:

I didn't think it was closed. Oh, it is?

CHAIRMAN CALARCO:

Yes.

MS. ORTIZ:

Yes.

CHAIRMAN CALARCO:

Public Hearing has been closed on this. Do I have a second?

LEG. BROWNING:

I guess I'll --

CHAIRMAN CALARCO:

Second for purposes of discussion.

LEG. BROWNING:

Second for the purposes of discussion. I'm curious why we're getting rid of our PERB Board.

CHAIRMAN CALARCO:

Can maybe -- Commissioner Chu, I think this is in your Department presently. Perhaps you can come up and explain why we would be terminating our Public Employee Relations Board.

LEG. BROWNING:

I mean I know it's not the only PERB Board, but I mean are we not utilizing -- nobody's utilizing our PERB Board? Is that --

LEG. CILMI:

If you could start with how it was established as well and why it was established and when it was established.

CHAIRMAN CALARCO:

A whole list.

COMMISSIONER CHU:

Sure. I'm going to just start with -- I'm going to start with a 30,000 feet. And I've asked Liz Pearsall who's my -- one of my Deputy Commissioners, who has overseen the Board for a number of years, who can answer those questions with greater detail. We -- of course, when we -- this is going back to January and going back to some of the measures when we were asked to find ways we can streamline the government, it was -- one of the things we were acutely looking for was for duplicate of services that our agency is providing. And it became immediately apparent that the State's -- the State PERB was being -- most issues were being directed to the State PERB for a number of years. And the mini PERB, as they're called, would be a local PERB, was extremely underutilized, if utilized at all. In some cases -- many times it doesn't have any cases before it at all. And it was at wholly County expense to keep this operating.

So it became from my standpoint as the Department head a no-brainer to recommend this. But for the more detail questions, I'm going to ask -- I'm going to ask Liz to answer to any of the more specific questions including the volume of cases as well as the costs associated with it.

MS. PEARSALL:

My name is Elizabeth Pearsall. I'm Deputy Commissioner of Labor, Director of PERB. The PERB has been underutilized for the past number of years. We are a redundant service to the State PERB. We follow exactly the same rules and regulations as to State PERB. They originally started in 1973. There were 29 mini PERBs. Right now there are two: Suffolk County and the Town of North Hempstead. And at this point in time it was deemed that because it is such a redundancy that we need not keep operating. And as a cost to the County, that may, if we were to have a situation of an impasse on the contract, could lead -- and the budget could rise to an amount over \$20,000 for just one impasse.

CHAIRMAN CALARCO:

Okay. Any other questions for Miss Pearsall? Sure, Legislator Cilmi go ahead.

LEG. CILMI:

What would be -- what would be an example of a situation where Suffolk's PERB would be utilized as opposed to the New York State organization?

MS. PEARSALL:

If we needed to have a Hearing Officer that would be appointed due to a certification or a de-certification question, the County would be required to pay the Hearing Officer, if we were to continue with the mini PERB. If the State were to do it, the State would pay that. And a per diem fee for a Hearing Officer is \$1600 a day.

LEG. CILMI:

Well, in the history of our mini PERB, what circumstances have arisen where we've utilized our mini PERB as opposed to the issue going before the State's Board?

MS. PEARSALL:

Recently there was a question of certification and de-certification for AME. And CWA had come in as an intervener requesting that they be recognized. A hearing Officer was appointed and was paid by the County. The -- CWA decided not to continue with their de-certification request and withdrew. That was the most recent. And that was three years ago.

LEG. CILMI:

Is there anything in that case, or any other case, that would preclude the State Board from hearing one of these types of cases?

MS. PEARSALL:

Yes. Our very existence. We are required to hear those cases if the mini PERB is still recognized in the County.

LEG. CILMI:

I'm sorry. If the -- if our mini PERB didn't exist any longer --

MS. PEARSALL:

Right.

LEG. CILMI:

-- would there be any cases that would not -- that couldn't be heard by the State's Board or would the State's Board then necessarily hear every case?

MS. PEARSALL:

They would --

LEG. CILMI:

I want to avoid a situation where, you know, any of our employees would be, you know, their rights would be somehow impeded we our dissolution of this Board.

MS. PEARSALL:

The State provides exactly the same service as the County mini PERB.

LEG. CILMI:

In the same manner and the same efficient -- I'm not sure how efficient or effective we have been, but in an efficient, effective manner the State would provide those services?

MS. PEARSALL:

As I understand it, the -- AME has gone and been -- has been using the State PERB, which is their option, for the last four years. So obviously it has fulfilled their requirements and their needs at this point.

LEG. CILMI:

Okay. And there's no cost to us for our PERB unless it's utilized; correct.

MS. PEARSALL:

Well, their staffing question -- we have a staff naturally. The Director is paid from County funds. There is a clerical staff. There is a Board that is paid, the PERB Board. The Chairman is paid \$12,000 a year. And so we would withdraw all of that.

LEG. CILMI:

So assuming the PERB Chairman is sort of out of a job, what happens with the -- with the rest of the Board or the staff and the Director and yourself, I suppose? What happens with all of you?

COMMISSIONER CHU:

The static cost of the PERB without any -- having to hear any cases would be -- is a little more than \$30,000 with the requirement of -- of retaining outside Counsel in addition to the cost of the Board. We've already had conversations with the Board. They understand the decision. They're supportive of the decision.

As far as the Director, it was, again, another added cost that we were able to mitigate earlier this year. I had one of my Deputy Commissioners retire; make use of the Early Retirement Incentive. And it enabled me to reallocate Miss Pearsall's talents to a lot of the responsibilities that he was fulfilling; again, making better use of the resources as opposed to -- as opposed to -- you know, as opposed to the resources that are being dedicated to the administration of the PERB. That was being very underutilized. This was a much better use of her time.

LEG. CILMI:

Okay. And there are other staff members as well that would be reallocated or no?

COMMISSIONER CHU:

There's staff time, you know, Liz being the only staff member that -- as a Director was -- spent the most substantial amount of time, but there is staff time that has been in large part already reallocated to other things because we haven't had hearings.

LEG. CILMI:

Okay. Thank you.

CHAIRMAN CALARCO:

Great. Any other questions? Okay. Thank you, Mr. Chu. All right. I do believe I have a motion and a second. Seeing no other motions, all those in favor? Opposed? Abstentions? **IR 1919 has been approved. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

Moving on, **IR 1926, Adopting Local Law No. -2012, A Charter Law to strengthen and improve the County's economic efforts by consolidating departmental functions within a newly created Department of Labor, Licensing and Consumer Affairs. (County Executive)**

I have a motion to approve by Legislator Spencer. I'll second the motion. All those in favor?

LEG. CILMI:

On the motion.

CHAIRMAN CALARCO:

On the motion, sure.

LEG. CILMI:

Just very quickly if I could the leadership now of this Department, Mr. Meguin, as well as Mr. Chu, if you would -- see how I can best diplomatically say this -- remind your inspectors that despite the fact that, you know, they may be going after folks that are not doing the right thing in their businesses, remind them that they should be respectful at all times, and that they are representing the County; and in turn representing each and every one of us on the Legislature in carrying out their responsibilities. And if they're doing that in a way that doesn't represent us well, we're going to call that to task. Thank you.

CHAIRMAN CALARCO:

Okay. Thank you. I literally -- my -- all the feedback I've gotten about Mr. Meguin be it from employees, be it from businesses that Consumers is tasked to regulate, or be it consumer/customers, who have gone to Consumer Affairs for assistance they have said nothing but good things. And that he has been very reasonable and just in applying the County's policies and rules.

LEG. CILMI:

There's a particular situation, which I think Mr. Meguin is familiar with, that we'll address that at a later time. But nevertheless I have no doubt that Mr. Meguin has the wherewithal to deal with that situation.

CHAIRMAN CALARCO:

Very good. And I appreciate it. Okay, I have a motion and a second. All those in favor? Opposed? Abstentions? **IR 1926 is approved. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 1927, Adopting Local Law No. -2012, A Local Law to establish collaborative long-term visioning plans among County Departments ("The Suffolk County Visioning Act"). (Gregory) I'm going to make a motion to table. I think the sponsor wanted -- oh, the Public Hearing's not been closed yet. So motion to table, second by Legislator Spencer. All those in favor? Opposed? Abstentions? **IR 1927 is tabled. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 1935, Adopting Local Law No. -2012, A Local Law to safeguard employees displaced by privatization. (Browning) Legislator Browning?

LEG. BROWNING:

Motion to approve.

CHAIRMAN CALARCO:

Motion to approve by Legislator Browning. We have some people coming up. Do I have a second to the motion before I proceed here? I'll second the motion for the purpose of discussion here. I guess, Mr. Brown, from the County Attorney's Office, do you have something you would like to weigh in here?

MR. BROWN:

Sure, thank you.

CHAIRMAN CALARCO:

Sure.

MR. BROWN:

Thank you, Mr. Chair. First, Mr. Cohen does apologize for not being here. He was diverted to other matters this morning. But in particular with respect to the law that's proposed, we do have two concerns.

The first concern deals with the very first sentence or clause in the law which requires that no plan, action -- plan, proposal, action or contract having the effect of privatizing the -- a service or a function that has two things very far reaching, probably unintended consequences; and second is that it does impact upon the agreements, which have already been negotiated between the County Executive's Office and the respective bargaining units.

As to the -- you may know that the contracts contain an appendix, which whenever any work is done to be subcontracted out, that the union and the County Executive's Office have the opportunity, or Director of Labor Management, I should say, have the opportunity to negotiate that and reach an agreement with respect to the type of work that is sought to be subcontracted out. So this particular clause, it does interject itself right into that bargaining process.

The second aspect of it, it does have far reaching consequences and that is probably unintended to reach every single type of service that might be done on a -- on a via contract basis. A perfect example, I could give you from our office would be for -- we use outside counsel. And I don't really think that's the intent of the sponsor to have that type of agreement come back and seek approval before we actually engage outside counsel to retain services.

The second aspect is the fact that the second sentence of the section requires that if there's any type of privatization contemplated, that it first be approved by -- I'm sorry -- that it -- if there's any

type of privatization be contemplated, that it require that employees be accepted for a period of 90 days. And this also, we feel, would be a violation of the New York State as well as Federal Labor Law.

What the clause really, really amounts to is a no-layoff clause with respect to these types of transactions. And that would mean that such employees would be retained on the same terms and conditions that now exists between the County and the employees and the bargaining units. If employees were going to go to a new employer, it would be the employer's -- the employee's bargaining units, not the County, that would impose the terms and conditions.

LEG. BROWNING:

First of all, an employer may not have a bargaining unit. The employees are the ones with the bargaining unit.

MR. BROWN:

If I said employer, I misspoke.

LEG. BROWNING:

And, you know, this is something that was brought to my attention quite sometime ago. And to do it as a County Law, and I didn't think it was something I could do pertaining to private business within Suffolk County, but with all that's been going on with the Nursing Home, security guards, privatizing everything under the sun, I think it's important that we make sure we have some kind of protections for the workers.

I know that there's a contract right now that talks about, you know, the new buyer or the new employer basically will continue to have those workers with them, but I don't see -- that doesn't strengthen anything. That doesn't secure them at all. And I think basically this law is just strengthening it, that if we choose to privatize any entity and whether it be anybody that's being privatized currently or in the future, should it be 10, 20 years from now, that that is something that we have to look at, is to protect the employees. Because they could be gone December 31st and January 1st may never be offered a job. As much you want to say it's in your contract -- there is no guarantee in those contracts.

And I think it's important to make sure that we have something to protect the workers so at least they would have 90 days to look for another job or to decide whether they want to stay where they're at. And, you know, the employer could turn around on day one and say "I don't want you." And I can tell you, I know that for a fact that it happens. I've seen it in my own district with the school bus drivers. The school bus drivers -- the company -- the school district changed the company. I think -- I know there was probably close to 200 employees. The company chose to keep ten. And that's -- that's where it went.

So I can tell you based on experience, and I've seen it before, I've seen it a number of years ago with another school district, I believe it was Sachem School District, they got rid of one company, brought in another. They did not bring the workers back. They did not hire those employees. So it's based on history and experience. But I know that this is something we need to do, is protect our workers.

I don't know what we've done to protect the current workers that we will see potentially 200 workers at the end of this year, what is being done to protect them? From what I could see, nothing. And like I said, when I saw that school bus company losing a contract and another one coming in -- and again it's to break the union. What if the employer comes in and doesn't want to have a union? He's not going to hire union workers. Because, like I said, the employees have the union. And they can choose to organize and continue to be organized and try to negotiate a contract. But when you don't have anything to protect those workers, they'll be gone in day one.

MR. BROWN:

May I respond, Mr. Chair?

CHAIRMAN CALARCO:

Sure, go ahead.

MR. BROWN:

If a transaction was presented to the Legislature with respect to some type of privatization of some type of service, and I use privatization loosely because something may or may not encompass an actual privatization, a full privatization, but for conversation purposes, if such a type of transaction was presented to the Legislature, the Legislature retains the opportunity to approve or disapprove that transaction. And reviewing the terms of that transaction, I think, would be a predicate for the approval or the disapproval, and you may find that in reviewing the terms of transaction, there are protections built in to particular transactions for employees or not. And if you felt there were not, you would have retained the power to approve or disapprove the transaction based on what you felt was fair to the employees and the overall benefit of the County and the County residents.

What the -- and this bill could possibly be redrafted; perhaps we could work together to accommodate what your goal is. Because the way the bill is currently written, Legislator Browning, is that it says that there will be in any transaction, that the employees will have to be retained for 90 days. And when I say that that's no-layoff clause -- so now somebody has to accept the employees. And essentially that would be on the same terms and conditions that are presently existing between the employees and between the County.

It would really be -- it would really be a -- it would be violation of the Taylor Law as well as Federal Labor Law to try impose those conditions on the future perspective employer. While the perspective employer may have the -- I know you're looking at me and you're smiling, but that is the intent -- that's the intent --

LEG. BROWNING:

No. But you know what?

MR. BROWN:

That's the intent -- that's what would happen the way the bill is drafted.

LEG. BROWNING:

Yeah, stop right right now. Because look at the top of the bill and the date that this was laid on the table. What date do you see on the corner?

MR. BROWN:

I think it was September 13th.

LEG. BROWNING:

September 13th. What date are we at?

MR. BROWN:

I think today is November 15th.

LEG. BROWNING:

Right. Two months ago this was laid on the table. I have had no phone calls, no e-mails, no communications whatsoever about issues with this bill. And you come today -- we had a Public Hearing. There was no discussion during Public Hearing about this bill about any concerns or issues about this bill. And today, now that the Public Hearing is closed and it's sitting here in front of us, and you know that if I have to make any major changes, we have to do the whole process again.

So in my opinion, this is -- *let's just wait until the Public Hearing closed, we'll have an issue with it, we'll jack it up, we'll hold it up as much as we can, we'll delay it as much as possible.* I'm not delaying it. We have workers who are in the process of being laid off. I want to see them protected. I want to see any future employees being projected. I want to pass this now. And let's worry about the workers. Because I sat here a couple of months ago when the sale went through of John J. Foley and how everybody was concerned about the workers. We all know we were concerned because you're laying off the employees. Well, guess what? Now they have an opportunity to try and protect them a little bit more.

So let's pass this today. And if we have some discussion or some tweaking that needs to be done, we can tweak it later. But you had two months to call me. I never got a phone call. I never got an e-mail. I got nothing. So, clearly it wasn't that much of an interest to anybody two months ago.

MR. BROWN:

I apologize to you, Legislator Browning, for that. And with respect to the current transaction, this bill wouldn't protect any workers that are involved in the current transaction because it doesn't have a retroactive effect. But I do apologize sincerely for not reaching out to you sooner.

CHAIRMAN CALARCO:

Legislator Cilmi.

LEG. CILMI:

Thank you. Legislator Browning, I completely appreciate and agree with your intent with this bill. But as it's presently drafted, I'm afraid I'm going to have to oppose it. But there's an idea that I have, that if you'll suffer the continued delay, and I apologize for that, I think we can probably come to some agreement.

And so my suggestion would be this: Rather than imposing on a potential private sector employer, the requirement to maintain County employees for X number of days, and rather than hamstringing the County Attorney in terms of how to draw up contracts, why don't we sort of look at it from a reverse perspective and say that any attempt that privatization of any function in the County must be made at least 90 days -- the bill, or whatever, has to be made at least 90 days -- or the approval of the bill even -- has to happen at least 90 days prior to such time that the transaction takes place.

So that the County employees still have that 90-day window that you're trying to achieve. And they have that 90-day window, not only that they can search for other opportunities, but they have that 90-day window for their full -- you know, they're fully covered by the County's health benefits for that length of time. There's absolutely no -- there would be no diminution of their -- of their, you know, salary or benefits whatsoever. And yet they'd still have that same 90 days to seek other employment if that was their choice.

That sort of accomplishes, I think, what you want to accomplish without constraining the County Attorney's Office and without forcing things upon private sector employers that may be problematic from a legal point of view.

LEG. BROWNING:

Well --

LEG. CILMI:

I just thought of it now. I'm sorry I didn't think bring it up earlier.

LEG. BROWNING:

Well, like I said, I'd like to see it go now and let the discussion continue as to whether we can do

that with the current workers, but we have some workers coming up. This bill does exist. And it actually exists in the City for janitors and -- who work in the various buildings. And that's kind of where I got the idea from.

I just want to make sure that no worker is going to get shoved out the door the day the transaction is completed. And I do believe that can happen. And, like I said, I've seen it done in the past and it will continue to happen if we don't do something to protect them.

CHAIRMAN CALARCO:
Legislator Spencer.

LEG. SPENCER:

I share my colleague's concern. And I appreciate what you're putting forward in this bill. And I'm also hearing -- and I agree with you, that the concerns should have been before the Public Hearing. I was aware of this but -- this was brought to my attention. And so I'm trying to -- because if you look at the current makeup here, and obviously Legislator Cilmi has stated his position that -- to carry this. We understand the dynamics of what the vote needs to be.

Are you saying that -- and I'm trying to interrupt your remarks to make sure that I understand them; that passing this bill interferes with the collective bargaining process because in a sense it's offering a concession or it's offering a benefit to the unions by -- if we pass it? Is that correct?

MR. BROWN:

That's -- yes. And I'll try to elaborate a little bit more. So if there was -- if there was a privatization effort for a particular service, and a private employer was taking -- was taking over the service with County employees, the new employer has the obligation to negotiate terms and conditions with the collective bargaining agent for the employers. If we -- if we were to say that the employers must go to a private employer for a period of 90 days, that is a term and condition of employment. But we're also assuming on the basis of the way -- of the bill, and the way that it's drafted, is that would be then under the same terms and conditions as presently exists, and let's say it's AME, between the AME employees and the -- and the new employer. And that would be circumventing the right of the employer to engage in collective bargaining discussions with the employee and their collective bargaining agent.

LEG. SPENCER:

For Legislative Counsel -- she's actually beside me -- I appreciate -- I appreciate what you're saying. I want to ask you just a straight forward question. I didn't realize you were behind me. I couldn't hear what you were all talking about. Does -- can we do this? Is this -- you know, is there -- to me there could potentially be some conflict in terms of our purview or our domain to do this. Is there a conflict here?

MS. SIMPSON:

I don't know that there is a conflict per se, but I would like the time to review Mr. Brown's information so that we know, you know, where their positions are coming from as well as our own. Would that be acceptable?

LEG. SPENCER:

So that -- I mean if we pass this now -- I mean -- I need some direction on this. I want to support my colleague. I think that her heart is well intentioned and I support her desire to protect our employees, but I also -- I'm hearing something here, and I have a genuine concern, and I want to be able to -- I'm mad, you know, as ever that these concerns weren't brought forward, and I appreciate your apology. And I don't know -- obviously someone had to see it and I'm not blaming you personally. I don't know if there's some explanation of that, but, you know, I think that Legislator Browning deserves my support. But I can see a conflict here. And I need Counsel to

give me some direction before I'm in a position to feel comfortable.

CHAIRMAN CALARCO:

Would you, if this was approved out today, would you be able to have answers on Tuesday? Or would George have answers on Tuesday?

MS. SIMPSON:

I would imagine that we would have answers on Tuesday.

CHAIRMAN CALARCO:

Okay. I have a couple of questions. Legislator Spencer, are you done?

LEG. SPENCER:

Yes.

CHAIRMAN CALARCO:

Okay. I had a couple of questions that I wanted to touch on here. I guess the first one should go to the sponsor, Legislator Browning.

Is there a way in which we're defining privatize seemingly is in your resolution? And I mention this because Mr. Brown had mentioned the use of outside counsel to his office. And I could be mistaken, but I thought there were certain procedures by which we decide whether or not that the County Attorney's Office should use outside counsel. Typically it's for areas where we don't have legal expertise on hand or where there's a conflict within the County Attorney's Office would not -- would have a conflict to address the issue at hand. So we have -- if I'm not mistaken, we have certain rules and guidelines that we use to structure when -- whether we do or don't use outside counsel within the Law Department.

MR. BROWN:

Yeah, aside from -- aside from conflicts, there may be some thing special that might be taking place. We have labor counsel; we have bond counsel; we also have counsel that we use on medical malpractice cases.

CHAIRMAN CALARCO:

We have special counsel to address issues that we need to have a special legal expertise and that we don't have on staff within the Department. But we don't contract out legal counsel to do our more -- our routine legal work that we do in the Department. In fact, we do quite a -- unlike a lot of other municipalities, we handle a lot of our legal work within house.

MR. BROWN:

That is correct. But when you read the law and it says no action, which has the effect of privatizing a service or function provided by employees of the County, theoretically that could be including our office. And so -- and that's -- I give you that as a specific example, but I'm certain that there are many subcontract agreements that are reached between the County and the various unions. And the subcontractor that's doing the particular work, each one of those would have to come to the Legislature then for some type of an approval. I don't think that's the sponsor's intent.

CHAIRMAN CALARCO:

You know, there's a historical -- there's precedent there in terms of using that specific outside service, be it outside counsel in your office, you're hiring companies that do most of our paving work.

MR. BROWN:

There may or -- there may or there may not be precedent depending on the type of job function.

So, for example, let's say DPW -- dredge operator. But let's say DPW has a situation where they need a dredge operator. They might offer up to subcontract out that work --

CHAIRMAN CALARCO:

Well, we actually do that. We do some dredging work inhouse and we do some dredging work outside of our house where we have an outside contractor do the work as we do with some of our paving and other types of jobs, although we don't do most of our paving jobs. There are certain things that DPW does that we do both; we have our people do it and we have outside contractors come in and do some of the work.

MR. BROWN:

So, actually you helped illustrate my point, is I really don't think that it's the intent of the sponsor, and I know she's here and I don't want to speak for her, but I do -- I don't think that's the intent for all of those various types of things, some of which may have precedent, some of which may not have precedent, to come to the Legislature for approval. But that would be the effect of this first sentence of this section of the law.

CHAIRMAN CALARCO:

So your position is that any of -- any of these items are privatizing, even though there is precedent there to use outside --

MR. BROWN:

Well, it's an action being performed. It has the effect of privatization. It's an action being performed by somebody other than an employee of the County.

CHAIRMAN CALARCO:

Okay. And I want -- the collective bargaining issue you brought up, so your position is that by passing this, we're interfering in the collective bargaining rights of the employees as a entity bargaining with the new employer on their terms and conditions of employment?

MR. BROWN:

I wouldn't -- I wouldn't answer yes to the question the way you phrased it, but what I would say is that the new employer does have the obligation to negotiate in good faith with the employees coming from the County with their collective bargaining agent. The way we read the law and the way we think that it would be interpreted is that the new employer would be obligated to accept the employee for 90 days. And that's circumventing that good faith bargaining obligation. Because the existing employees, to go to a new employer for 90 days, we think, would be under the terms and conditions that are currently existing between the County and the employee.

CHAIRMAN CALARCO:

So, you're not -- your position is not that this would interfere in our collective bargaining process with our bargaining units, but it would interfere with the potential future collective bargaining process of the new employer and the employees whoever they choose to have represent them.

MR. BROWN:

That's correct. And in effect this becomes a no-layoff clause for new employees with respect to some type of privatization function. And I understand that that is the intent of the -- of the sponsor. I would just think that perhaps that it could be accomplished --

CHAIRMAN CALARCO:

No to put words into the sponsor's mouth, I think what she's trying to accomplish is to ensure that when we -- if we decide to do something similar to like we did with the Foley facility in the future, that those individuals who are working for the County are going to be guaranteed a job and be

guaranteed the opportunity to have that job and do it for a while so that they can at least prove their mettle to the new employer that they're worth keeping opposed to have a situation where the new employer can offer them a job at some radically lower salary and benefits that would make it very unattractive and make those people not want to stay on the job.

MR. BROWN:

With respect to the Foley, I would just like to -- just like to point out that because we do have litigation, our conversation has to be circumspect about that. I would say that the -- what was -- without having to go into Executive Session and with trying -- and we're trying to be cautious as well, that that circumstance is distinguishable and we can talk about that -- about that afterwards, if you would like. But I would say that that is distinguishable. It's just one of the factors -- key factor is that this doesn't seem to allow any type of good faith collective bargaining between the perspective employer and the employees.

CHAIRMAN CALARCO:

But that's irrespective of the collective bargaining process that we have with our employees. So this is not extending our employees a new benefit. That circumvents our collective bargaining process.

MR. BROWN:

It is in that it really can be construed as a no-layoff clause. It says they will go to the employer for 90 days.

LEG. BROWNING:

They're not our employees once that --

CHAIRMAN CALARCO:

Actually, Legislator Browning, the reason I ask the question and trying to get the clarification because if that's their position, then, our having a clause within the contract to sell the Foley facility, that says that they have to offer those employees a job is doing the same thing.

MR. BROWN:

Again, I'd say that that's distinguishable. And because of the lawsuit we could -- we could talk about that in Executive Session. And also we could talk about that when the -- with the Counsel that's representing the County in that lawsuit. And also I would just like to point out with all due respect that Legislator Browning is a plaintiff to that in that lawsuit.

LEG. SPENCER:

I think that in light of the information that I'm hearing and also we're looking for further clarification, I would like to offer perhaps a motion to discharge.

CHAIRMAN CALARCO:

Okay. I have a motion to discharge without recommendation by Legislator Spencer. I have a few more questions yet. And back to the sponsor, what is the enforcement mechanism for this? How do we --

LEG. BROWNING:

Let's not talk about that place which we should not be talking about. In general.

CHAIRMAN CALARCO:

But I need to understand how we would effectuate this? How would we ensure that those individuals would be retained for 90 days?

LEG. BROWNING:

If we choose to privatize a department within Suffolk County, and it could be DPW tomorrow, they could decide let's talk -- let's pretend that their wanting to privatize DPW, bring in the private contractor to operate that Department. When they're in that process and when they're doing that transaction, they can have it in there that our law would require that they would keep the employees for 90 days. Once the transaction is sealed and the contract is signed, they are no longer Suffolk County workers. All we're doing is that buyer, or contract, we're just saying we require under our law that you keep them for 90 days; that you keep those County workers for 90 days. Now I'm not saying we're doing -- we're paying them, we're paying their health benefits. You're just saying "we want you to retain those employees for 90 days."

CHAIRMAN CALARCO:

What is our mechanism to require that? That's put into the contract?

LEG. BROWNING:

That would be put in your contract.

CHAIRMAN CALARCO:

So when we contract with an entity to provide a certain service, part of that -- one of the provisions of that contract would have to be that they are going to retain --

LEG. BROWNING:

The employees.

CHAIRMAN CALARCO:

-- those employees that are currently providing that function for at least 90 days --

LEG. BROWNING:

Right.

CHAIRMAN CALARCO:

-- at their current salary and benefits. Is that -- that's the interpretation of Mr. Brown, that they have to do it at the current -- and, in fact, his point of contention here is that we're interfering with that collective bargaining process of those new employees to negotiate their salary and benefits with their new employer. So is this resolution going to require that that new employer keep those individuals at the salary and benefits that they receive at the County or is it just going to just simply say that they have to give them a job?

LEG. BROWNING:

Sarah, the language in there does not talk about their salaries and benefits; correct?

MS. SIMPSON:

No, the language doesn't speak on that issue.

CHAIRMAN CALARCO:

So then the language would not require us to have them employed at the current salary and benefit they get from the County, but merely that the new employer would have to give them a job? A first right of refusal?

LEG. BROWNING:

Yes.

CHAIRMAN CALARCO:

Okay.

LEG. BROWNING:

Like I said, I had that experience in my district with the school business company, that I think you know which one I'm talking about, where they sold -- they picked up -- they gave a contract to a non-union company. The union company obviously were adamantly opposed to it, but there was no protection for the employees. The school district made no protections for the employees. And what happened was all of these employees who have lived in that community, were the taxpayers in that Community were not offered the job with the new company that came in and basically it was to keep -- it was to keep the union out.

CHAIRMAN CALARCO:

Well, I understand. So our mechanism here to enforce this is going to be with whatever contract we have, is going to be included in the terms of the contract.

LEG. BROWNING:

Yeah.

CHAIRMAN CALARCO:

And then if that new entity violates the terms of the contract, then the County has the opportunity to bring legal action.

LEG. BROWNING:

Right.

CHAIRMAN CALARCO:

Okay.

LEG. BROWNING:

And those employees are the union. The union are the workers. And if they choose to organize and negotiate a contract --

CHAIRMAN CALARCO:

Yeah.

LEG. BROWNING:

-- with their new employer --

CHAIRMAN CALARCO:

Yeah.

LEG. BROWNING:

-- that opportunity is there.

CHAIRMAN CALARCO:

Sure.

LEG. BROWNING:

But at least they have that opportunity and to keep their jobs.

CHAIRMAN CALARCO:

And we're not dictating the terms of that employment; just dictating that there has to be employment offered and that they cannot -- could they remove a person for cause?

LEG. BROWNING:

Of course they could. They can do that now. With any employee if you have a good enough cause,

you can always remove an employee.

CHAIRMAN CALARCO:

But you're guaranteeing these people for 90 days as opposed --

LEG. BROWNING:

Well, I mean, come on, reality is, yes, you can remove for serious cause.

CHAIRMAN CALARCO:

Okay. And just on the other issue that Mr. Brown brought up regarding the outside counsel and our dredgers and all those other entities that we have contracts to bring in people to do work for the County, is that the intent that any of those things could be considered privatization? I mean, maybe this is more appropriate for Counsel. I mean, is that what this law is saying? That any of these types of actions is going to be privatizing or is this more intended for when we completely divest ourselves of the responsibility of a function?

MS. SIMPSON:

I believe it was drafted with the purpose of when we are losing the function, when we're absolutely taking the function away. With, I think, like outside counsel, that sometimes happens because the County Attorney's Office cannot represent them because there's some kind of a conflict.

CHAIRMAN CALARCO:

Would this -- so, in privatizing it, are we talking -- which I think is what we're all talking about here but -- in fact I think that's what the title is, right? So are we talking about when we hire an outside company to provide a service on behalf of the County, such as we do when we contract with various different hospitals to provide most of the services at our health centers -- I mean is that privatizing? Or is it privatizing when we say okay, we're going to stop doing a specific service, and whatever interest we have in that service, we're going to sell off to another entity.

MS. SIMPSON:

That was the intent, was the -- the latter of the two where --

CHAIRMAN CALARCO:

Where we just completely divest ourselves of the service altogether?

MS. SIMPSON:

We're completely handing over the service.

CHAIRMAN CALARCO:

Not that we are no longer -- we are going to decide to use some other entity and contract with them to provide the service.

LEG. BROWNING:

But right now we have dredges in the Forge River.

CHAIRMAN CALARCO:

No, I'm sure --

LEG. BROWNING:

We contracted with them --

CHAIRMAN CALARCO:

I'm aware. No, I understand that.

LEG. BROWNING:

That's not privatization.

CHAIRMAN CALARCO:

We have our own dredge equipment and we also do dredging.

LEG. BROWNING:

Right.

CHAIRMAN CALARCO:

And we also contract companies to do dredging for us, because quite honestly that's the only way --

LEG. BROWNING:

We don't have employees --

CHAIRMAN CALARCO:

-- we have achieved and been maintaining it if we don't maintain the --

LEG. CILMI:

Mr. Chair, if I may, a simple private -- and it probably wouldn't affect the availability of -- a vote on this, I don't think, but a simple definition in this bill to say -- to say that --

CHAIRMAN CALARCO:

I think they're probably caught up.

LEG. CILMI:

-- you know, for the purposes of this bill, privatization means blah, blah, blah, would clear up that whole issue, I think.

CHAIRMAN CALARCO:

Yeah, I think that's the kicker here. I agree. Would you be amenable to maybe inserting language that defines -- clearly defines what privatization means in this bill?

LEG. BROWNING:

If it would require another public hearing? No.

MS. SIMPSON:

I don't know that it would require another public hearing. I think that's a fairly minor change, but it won't be eligible for a vote at this coming meeting because of the seven-day rule.

CHAIRMAN CALARCO:

Kate, would you be willing to put it off? We're only two weeks from the next meeting.

LEG. BROWNING:

Why don't we discharge it and I'll work with Sarah so make the changes. How's that?

CHAIRMAN CALARCO:

We're still going to have to wait until the next meet to approve it.

LEG. BROWNING:

That's okay.

CHAIRMAN CALARCO:

Mr. Cohen, I see you managed to make your way here after all.

MR. COHEN:

I apologize for being late. I just wanted to make my position clear on the employment issue, the labor issue. The problem -- and I heard some of the conversations back and forth. The problem that I would have with this bill is, collective bargaining is between the County Executive and the unions. My position is this bill is conferring a benefit on the employees. The collective bargaining agreement specifically has layoff clauses. And we have to meet certain obligations, certain notice requirements before we can layoff.

So this adding an additional benefit outside of the collective bargaining agreement. Only the County Executive can make agreements with the unions. This body approves appropriations with respect to those agreements. So it's my position -- my opinion that this bill confers a benefit outside the collective bargaining process. And it's something that this body cannot do.

LEG. BROWNING:

Well, once they become privatized when that contract is signed and sealed, they are no longer your -- the union members that you negotiate with, they're no longer a part of the County. So there is no collective bargaining process on your part.

MR. COHEN:

But you're providing a benefit to current employees post employment, which is a term and condition of their employment. That's clearly the intent of the bill. You're conferring a benefit on these employees; correct?

LEG. BROWNING:

Okay. And when you sold the Nursing Home, what negotiations did you have with the union to change their employment?

MR. COHEN:

I mean, unfortunately as you know we are in litigation on that case. And I cannot -- and actually I've recused myself because you yourself is a party to that litigation.

LEG. BROWNING:

Okay. Let's talk about any entity within -- let's pretend it's DPW. What -- did you have -- would you have negotiations with the union when you decide to privatize them?

MR. COHEN:

Again, if there was negotiations, that would a matter for the County Executive; not the Legislature.

LEG. BROWNING:

My answer for that one was probably, no, you wouldn't.

MR. COHEN:

Well, again, I mean, you know, you're talking a hypothetical. I can't answer a hypothetical as to whether we would.

CHAIRMAN CALARCO:

Well, we have a specific but nobody wants to talk about it.

MR. COHEN:

Well, legally I can't speak about it.

CHAIRMAN CALARCO:

Okay.

LEG. BROWNING:

I don't know, can we talk about security guards?

CHAIRMAN CALARCO:

There's a lawsuit on that, too. We currently have a lawsuit on that issue as well, do we not?

MR. COHEN:

We do.

CHAIRMAN CALARCO:

We can't discuss that issue either? Or we can go into Executive Session to discuss it?

MR. COHEN:

Not in public. We can talk about it in Executive Session.

CHAIRMAN CALARCO:

Legislator Spencer.

LEG. SPENCER:

I'm looking at the language here. Therefore, for the purpose of this local law to ensure that County employees who are affected by privatization retain employment for at least 90 days after they are separated from County service. So, I guess, my question to the sponsor is that -- all right -- if they're separated, we're saying that they're no longer County employees, but we are -- this law forces the entity that's negotiating with the County to keep this -- these employees. And although I want to protect them, I'm also concerned that -- does that make us less competitive when it comes to -- if we are trying to compete or privatize with certain functions, would we be likely -- is that -- if we as government in that position then force private agencies that are dealing with us to take on those -- those terms and affect this blanket like fashion, I mean is that fair? And does that weaken us as a --

LEG. BROWNING:

I think if you're putting out an RFP to privatize something, that would be made very clear. So, anyone's who going to bid is going to know that. And, again, those things that we cannot talk about and contracts that are existing, there's language there that says it's protecting the workers. And, so, again, it's hard to not talk about something you can't talk about.

LEG. SPENCER:

And I guess my -- because the way the language --

LEG. BROWNING:

Think about contracts and discussions that occurred. *And, oh, it protects the workers.*

LEG. SPENCER:

I understand that.

LEG. BROWNING:

Well, guess what? It doesn't.

LEG. SPENCER:

And the second part of my question would be: When we talk about termination with cause, unless that is spelled out and if the contract says -- there's no way that it doesn't allow for that, you can't assume that if there's cause -- because legally we're saying if you are entering into this contract as a private agency, that you have to retain these employees. It doesn't give you the room to terminate for cause if there is cause.

Maybe for Counsel, though, the way the language is -- as of now, if I was that private agency that entered into an agreement with the County and privatized it, I had County employees that were now working for my private company, and there was cause for termination, am I -- is there any recourse here? Am I able to terminate? Or the way this is written, that they would have to maintain their employment for at least 90 days?

MS. SIMPSON:

That's not addressed in the bill.

LEG. BROWNING:

However, if it's -- again, we can't talk about the other issue because of lawsuits, but if it falls under the Health Department, let's say, yes, there is cause for termination under State Law. So, I can't go into it any further, but, yes, there is cause for termination.

LEG. SPENCER:

Would a line in here indicating -- would it be a minor change to say where -- unless superseded by State Law or for issues of cause -- because I can also -- the way this is stated, I understand the protective mechanism, but there may be times where the whole point of privatization is for -- to have the efficiencies. And, I think, my concern is that it cripples the County in a sense. So, I'm trying to reconcile the -- a strong desire to support our County employees, but also realizing that this could damage our ability to be able to deal with the private sector if you have this type of burden on that process.

LEG. BROWNING:

Well, I guess, that's depend on you how feel about privatization of a public employee. Do you support privatization of public employees? Yes or no? And if you do, then, obviously you'd want that language in there to weaken -- as you say, strengthen the County's ability to do that. That's the way you can look at it.

LEG. SPENCER:

I understand, but I think that also that where -- we're obviously dealing with unprecedented difficulties and -- where we've had to make some tough decisions throughout this process, where to preserve -- the Executive has had to take a look at the County and its operations as a whole and we're we've had to protect the 10,000 County workforce, where we've had to put in efficiencies and do some things that requires us to make some difficult decisions. I think that where you have a situation, a law that is just a blanket statement in all cases could -- could be difficult and could actually hurt County employees in the long run or hurt the County as an employer as a whole in the future, so --

LEG. BROWNING:

Well, like I said, this is a two-month old bill. I have had no communication whatsoever from anyone with any concerns or issues about my bill. And I think --

LEG. SPENCER:

That's very important. You're absolutely right.

LEG. BROWNING:

Right. And if there was true concern about making this a good bill, a better bill to protect the employees, I think I would have had communication a lot sooner.

LEG. SPENCER:

I did have a motion on the table for a discharge, Mr. Chair. I didn't know if there was a --

CHAIRMAN CALARCO:

Yes. Madam Clerk, what motions do we have?

MS. ORTIZ:

Just approval. Approval.

CHAIRMAN CALARCO:

Who was the motion to approve?

MS. ORTIZ:

Legislator Browning.

CHAIRMAN CALARCO:

Legislator Browning. And I have a motion to discharge without recommendation by Legislator Spencer?

MS. ORTIZ:

I have a --

CHAIRMAN CALARCO:

And I have no second to either?

LEG. SPENCER:

No, you seconded hers. You seconded the approval.

CHAIRMAN CALARCO:

For purposes of discussion. Okay. I will withdraw my second for the approval.

LEG. CILMI:

Mr. Chairman?

CHAIRMAN CALARCO:

Sure.

LEG. CILMI:

I continue to be opposed to -- not the intent, but the mechanism that this bill sets up. I think, that the core issue here is -- is giving our employees some notice so that they can do what they have to do so that the rug isn't pulled out from under them. I appreciate that intent and would be happy to support a bill if it accomplishes that intent by -- by allowing for a 90-day period after which we approve of some sort of a transfer of service before the actual transfer takes place. If the bill were to be changed to that, I would support it. Meanwhile, I will support a discharge motion. And if we need a second, I'd be happy to do that to bring this bill to the floor to have a full discussion in front of the full Legislature on Tuesday.

CHAIRMAN CALARCO:

Okay. So, I have a second by Legislator Cilmi to the discharge without recommendation. I think I have more questions now than I did when we started this process. I think that you need to put some language in there, Legislator Browning, regarding exactly what privatizing is and means because certainly the County Attorney's Office has brought up some pretty valid questions, I guess, about that issue particularly. I got a lot of questions about the issue that is not to be discussed but -- I guess I have a motion and a second for a discharge. We'll just call the vote. All those in favor? Opposed? Abstentions? **IR 1935 has been discharged without recommendation. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

INTRODUCTORY RESOLUTIONS

Moving on, **Introductory Resolutions, 1938, Adopting Local Law No. -2012, A Local Law to clarify escrow requirements for licensed home furnishing sellers. (Barraga)** This just needs to be tabled for a Public Hearing so I'll make that motion.

LEG. CILMI:

Second.

CHAIRMAN CALARCO:

Second by Legislator Cilmi. All those in favor? Opposed? Abstentions? **IR 1938 is tabled. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 1971, Authorizing the sale of County-owned real property pursuant to Section 72-h of the General Municipal Law to the Town of Southampton for Affordable Housing Purposes (SCTM No. 0900-260.00-04.00-005.001). (County Executive) I'll make the motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer.

LEG. CILMI:

On the motion.

CHAIRMAN CALARCO:

Sure, on the motion.

LEG. CILMI:

Counsel, can you tell us how big a piece of property this is, please?

CHAIRMAN CALARCO:

I know typically our Department of Real Estate comes for these meetings, but I know this Miss Rosen/Nikoloff/Thomson is active -- working very hard right now to try to get permanent temporary housing for the victims of the Super Storm. And I know she's been tied up with that effort.

MS. SIMPSON:

I don't see it.

CHAIRMAN CALARCO:

Okay, we're going to skip over this for the moment for Counsel to get those answers. And we're going move onto **IR 2004, Adopting Local Law No. -2012, A Charter Law to improve the County's operating efficiencies by transferring the Division of Risk Management to the Suffolk County Department of Law. (County Executive).** This needs to be tabled for a Public Hearing. I'll make the motion, second by Legislator Cilmi. All those in favor? Opposed? Abstentions? **IR 2004 is tabled. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 2026, Adopting Local Law No. -2012, A Charter Law to establish a Traffic and Parking Violations Agency. (Calarco) This needs to be tabled for Public Hearing. I'll make the motion.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. All those in favor? Opposed? Abstentions? **IR 2026 is tabled. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 2061 Adopting Local Law No. -2012, A Local Law to establish the Suffolk County Traffic and Parking Violations Agency. (County Executive) This also must be tabled for Public Hearing. I'll make the motion.

LEG. CILMI:

On the motion.

CHAIRMAN CALARCO:

On the motion.

LEG. CILMI:

I just want to know, if Counsel could explain the difference or maybe the sponsor could explain the difference between the two.

CHAIRMAN CALARCO:

There's, I think, a minor difference in that I think the County Executive's Office put in a copy of the form for those to be -- to plead guilty. We're going to get together. We kind of were working on separate paths without really communicating on this. We're going to get together and maybe hash out one bill that we can all support.

So, I made the motion to table IR 2061, second by Legislator Cilmi. All those in favor? Opposed? Abstentions? **IR 2061 is tabled. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)** The other alternative is that I think my resolution requires that the function be performed by County employees.

IR 2064, Adopting Local Law No. -2012, A Local Law to require gasoline stations to be prepared to run emergency generators for fuel pumps. (Stern) This also must be tabled for Public Hearing. I'll make the motion, second by Legislator Spencer. All those in favor? Opposed? Abstentions?

LEG. CILMI:

On the motion.

CHAIRMAN CALARCO:

Sure, on the motion.

LEG. CILMI:

I believe we have Michael Watt from the Long Island Gasoline Retailers Association. Can we just ask him to come up? I know this is a Public Hearing, but this is the Committee that will deal with it, so.

CHAIRMAN CALARCO:

Sure thing. He's been waiting patiently.

LEG. CILMI:

Yes, he has.

CHAIRMAN CALARCO:

Mr. Watt?

MR. WATT:

I appreciate the opportunity -- and I'll be real brief. Obviously this is an issue of concern across the State and across the Island. And we understand that the State is looking into legislation that would require backup generators. What we'd love to do is work with the State, with the local municipalities in creating uniformed requirements and somehow make it work so that the problem is solved in a way that's not too onerous to the service station owners. So that we ask Suffolk County to take a -- be involved at the State level so that we can have one set of backup generator requirements that many of our service station owners who own properties in Suffolk County, in Nassau County, and also in the City, we aren't dealing with a hodgepodge of requirements that we can take -- a comprehensive approach to this and keep this thing as simple and as cost efficient and cost effective as possible.

CHAIRMAN CALARCO:

Great. So am I hearing that you guys are willing to work on accomplishing this goal? Because certainly we've learned our lessons on this one, I think, of the need to be able to provide gasoline services to its customers and the potential impact on your businesses, at least in these times.

MR. WATT:

Our members took a severe hit over the last two weeks. Obviously the ideal solution is to get the service stations back on the grid as quickly as possible, but we don't ever want any of our members to go days without power.

CHAIRMAN CALARCO:

Yeah, any of your members without power, we can't pump right now. I mean, they're losing money because they still have a lot of overhead costs that aren't going away, you know, their mortgages on their businesses, whatever -- whatever money they have to pay out, lay out, those kind of things.

MR. WATT:

And we understand the public's not being served. But what we're trying to avoid is a situation where you have different regulations and requirements for different Towns, different Counties.

CHAIRMAN CALARCO:

Sure.

MR. WATT:

And in different boroughs so --

CHAIRMAN CALARCO:

Sure. And perhaps we can try working through our FRES and Office of Emergency Management and the State to see if there are potentially grants or things that are out there to help your businesses obtain these generators or backup pumps so that there's a way of staying open in the event of an emergency.

Legislator Spencer, you had something you wanted to add here?

LEG. SPENCER:

We definitely are looking forward to working with you and understand the concern. I'm one of the co-sponsors of this legislation. And I will say this: You know, that we are dealing with the State. And I'm not sure what political issues that there are. We have a responsibility as Legislators for the residents in this County. And this came up last year after Irene and we definitely -- I strongly feel that, you know, we want the retailers to be as free from burdensome regulations as possible and to not have a hodgepodge of legislation and requirements that you have to deal with.

But our primary responsibility -- our responsibility is to Suffolk County. And we want to have the

flexibility in this legislation where -- whether or not it's hand pumps or backup generators -- in fact, the press conference that Legislator Stern -- who is putting this forward, and it came up out last year and it kind of went on the back burner because no one ever thought that another storm could happen so quickly, is that he's already working with the IDA in terms of making sure that we provide the support, that we don't leave you out there in the cold. But if there's -- if we see that the State is moving and that this can work -- but this has to be done.

And I'm a Legislator for Suffolk County. I'm going to work with you to limit the regulations, to make it fair, to make it unburdensome as possible, but we will not wait on the State and other municipalities to take action on this. And so hopefully we can take action together. And I support you and look forward to being a partner on this. But this was a tragedy of epic proportions and we have to do something about it.

The idea that first responders and people -- and you know what happened where there was gas in the ground, and I'm running around as a physician and could not get gas. There's gas literally in the ground. And we had a warning. So this has to happen. You can understand our drive here. So I just wanted to make that very clear.

MR. WATT:

I appreciate that. And you're spot on. And, you know, most of our members have been in the industry 20, 30, even 40 years. And none of them can remember being out of power for more than 24, 36 hours. So the unprecedentedness of this is scary. But what's even scarier is the fact that, you know, the storm of the century seems to be coming every year now.

So, we agree. We have to be ready. The more comprehensive of an approach we can take to this, the better chances there are of us getting some kind of Federal grant because it's easier for them to apply to pay for this. Because if an individual business owner has to foot the bill -- and you're talking anywhere from 30 to \$50,000 for this. This isn't going down to a box store and grabbing something off the shelf. You got to rewire the whole station. There's a lot at stake. It's one more nail in the coffin that's going to drive that small independent businessowner out of business.

And trust me when I tell you, when the major corporate chain or the guy who owns two dozen stations, you know, if he owns two stations on the corner, he's not going to be kept nearly as honest as if he owns one station and an independent business owner's across the street, then they keep each other honest and it keeps the price of gas down.

So, we really appreciate your support. We welcome any opportunity to give you -- share with your our input so that we can come up with a solution that works for everybody concerned. Because we don't want to be without power. And none of us want to go through what we went through the last two weeks with the long lines and the aggravation, because it's not in anybody's best interest.

So I thank you very much for this opportunity to speak. I just want to share with you that we really welcome any opportunity to make this work.

CHAIRMAN CALARCO:

Great. Legislator Browning, you had some any questions?

LEG. BROWNING:

Yeah. I think, what was said -- I'm concerned about passing a bill to force something on -- especially -- I have some small businessowners in my District that own the gas stations. And I know, you know, I have a big Hess gas station. Well, maybe it would be easier for him to buy the generator and do the work than it is for small businessowner. And I'm concerned -- granted that they're going to get grants and, you know, try to get the gas stations up and running the way they need to be. I feel we should give them an opportunity to do that, rather than pass something and shove it down their throat. I really have a hard time with this one

because it is a burden. I see -- grant it, you're saying they have gas in the ground, but they're losing money because they have no electricity, they can't operate their gas station.

And to me with what's happening, some of them are lose -- they've lost business, they're losing money. And to now turn around and hit them over the head with something new, I really have a concern about that. I want to give them an opportunity to get the grants, start working with them; and, again, you know, the big gas stations can probably afford it and do it. The small ones, I'm not prepared to beat them up on this. I think let them have an opportunity, do what they have to do, maybe give them a timeline before next year to see how many of you -- you know, how many can get grants to get those generators, to get hooked up. And, you know, if they don't do anything, then we'll put a bill in and force it on them.

But right now I don't think it's a good idea. I've seen the small business guy in my District. And, you know, the electricity was out on Montauk Highway. I just have a hard time forcing this on a small businessowner. You know, if you want to change it where it's a big franchise, you know, maybe that would be okay. But I'm having a hard time with the small guy.

CHAIRMAN CALARCO:

Sure. And I appreciate that. And I actually think the industry's starting to realize that this is to their economic advantage; when they have a gas station owner who can't pump gas, he has it and he can't pump it for 10, 15 days because he's been out of power, it's certainly to his economic advantage to have power to pump gas. It's a matter of finding how we cover that cost. And certainly when we talk about hardening our infrastructure and be prepared for storm events like this, it's not just public infrastructure. It's also private infrastructure, gas network throughout the system.

Legislator Cilmi had a question.

LEG. CILMI:

Just a couple of quick points. And I don't want to debate the bill, but I really find -- find it difficult to swallow, to say the least. The -- what would happen inevitably as a result of what we've seen in the past couple of weeks, is that, you know, gas station owners, be it a big corporation or a private individual, they don't want to lose revenue. And they've lost massive amounts of revenue as a result of this storm.

So you will inevitably see gas stations, I'm sure, purchasing generators to run their facilities without us having to mandate that happening. Guess what's going to happen? So if the Hess Stations all have the resources to purchase generators, and they do, and they install them, the independent guy who's across the street from the Hess Station is going to have to make a decision; either he's going to remain competitive with the Hess Station or take a risk not to make that investment and lose the business if, in fact, another storm occurs that renders them powerless, literally and figuratively, to do business.

So, there's absolutely no need for us to do this; no need whatsoever. The problems that we experienced during the storm had much more to do with issues further up the supply chain than it had to do with individual gas stations being out of power. You know, if you're a gas station and -- if you're going to mandate this -- if I'm a gas station owner and I have a choice of being forced to spend money that I just don't have, because quite frankly they don't have it, I'll just close my station; either in perpetuity or during the storm, I'll just close my station. And then what happens is you don't have the convenient store possibly opened so people can't walk to the gas station and buy, you know, half a gallon of milk if they need it or eggs or whatever it may be. I just think -- we have to stop regulating small business. You know, they already face tremendous regulation and tremendous taxation. We have to stop. We have to let the free market work a little bit. And it will work. It's proven to work.

CHAIRMAN CALARCO:

Okay. Legislator Spencer is next. I just remind all my colleagues this bill has to be tabled for a Public Hearing to take place next week and there will be plenty of time to debate it at a further point. Between then and now you can certainly relay your comments to Legislator Stern who's the author of this legislation.

LEG. SPENCER:

To my colleagues, to their remarks, I get it. I understand that. I understand small business. I understand not the need for regulation. But there are certain items that -- we're not talking about the lights went out and the Slurpy machine was broken. Gasoline becomes an essential for public safety. It's not a supply and demand issue when you're talking about an emergency or something of this proportion. We're talking about 911 operators. We're talking about Police Officers being able to get to and from work. And we're not talking about this was an unprecedented event that occurred this year. This issue preceded me coming on this Legislature.

So either we make that decision -- and, again, my remarks were not that we need to pass this, that it has to be done. We got to work on it. But what I'm saying is that if we look at whether our emergency response, our -- but this -- gasoline becomes an essential utility. That's the only way to keep the generators running. People will freeze and die if they can't get gasoline. So that changes the perspective a little bit when we're talking about something of this sort, that it doesn't -- I know it's a small business issue. But this County has to be able to get gasoline to hospitals, to first responders, to operators when there's an emergency.

Now we can do that through the State, we can do it equitably, we can do it in a fair, minimally regulatory sense, but it has to be done. It's not like this dropped out of the air. This came up after Irene. And so gasoline -- the supply and demand in the small business changes in that particular situation. We're not talking about commodities on the shelf. This -- gasoline became an essential thing that, I feel, that we have a responsibility to make sure that it is supplied. Maybe we don't do this. Maybe the County has to store gasoline and open that up in an emergency situation. I don't want to compete against them either, but that's what the difference is in this case.

LEG. CILMI:

So let's write a letter to the Governor. The Governor has already expressed a desire to restructure this whole thing that we call LIPA. Let's write a letter to him and say when he does that, let's require whatever entity succeeds LIPA, let's require that that entity find a way to keep gas stations and the terminals, which really were the cause of this problem, powered up. Let's burden the entire system with it; not the individual business owner who's struggling to put food in their family's mouths.

LEG. SPENCER:

Absolutely, absolutely. Whatever -- let's do whatever we can do. I agree.

CHAIRMAN CALARCO:

Part of the reason we have such high electric rates, Legislator Cilmi, is because we burdened LIPA with debts that preceded them. Legislator Browning, you had something you wanted to add.

LEG. BROWNING:

Yeah, just -- you know, we just passed a budget. And we talked about our budget woes. And my gripe all the time is about the unfunded mandates. And we're now trying to put a mandate -- an unfunded mandate on the private business owner. So when I'm complaining about unfunded mandates from the State, how can I honestly vote for an unfunded mandate on a private business owner? It's just not fair. You're just creating another problem for them. And, yes, the Governor,

I know, is talking about how many billions of dollars he's looking to get. And maybe amongst that billions of dollars we should be looking to make sure that they're going to fund those gas stations. But at this time this is going to be a hard thing. I'm not going to support an unfunded mandate.

LEG. CILMI:

I appreciate the sponsor's -- rather, the Chairman's deference on this allow and allowing Mr. Watt to speak and allowing us to have some debate on this because it's critically important. I'm going to leave it alone now, but I just wanted to say thank you for allowing us to go through with this.

LEG. SPENCER:

Thank you.

CHAIRMAN CALARCO:

Sure, no problem. We have another ten minutes before the next Committee starts. We have more time.

LEG. CILMI:

We can keep going? (Laughter)

LEG. BROWNING:

Can we have Charlie come up?

CHAIRMAN CALARCO:

Sure, Charlie, I see you're antsy back there.

MR. GARDNER:

Thank you, Mr. Chair, and I'll be very brief. Without advocating merits of pro or con, I would strongly support a collaborative regional effort.

One thing -- there are two quick notes that I have from my -- I can't get out of the habit of reading through the laws and then figuring out how to enforce them and things. One is that this law would require some small business owners, gasoline station operators, to have a generator -- you know, install it, maintain it, annually check it, etcetera. And it also requires our distribution centers, which in this case is pretty much is Holtsville in Suffolk County, to have backup.

You have to understand that there are gas station operators in Suffolk County who are contractually obligated to terminals that are not in Suffolk County. For instance, they are in Inwood. And I won't name the company, but Inwood was down. So you would, therefore, be imposing on -- let's say I have a gasoline station. I have to buy this generator, install it, fix and repair it, maintain it, annually test it. And guess what? I wouldn't have been able to get gas last week anyway because my terminal, which is in Nassau County, was out of business. So that's one thing that -- kind of in that collaborative regional approach maybe you should consider.

And second I would just -- I think just because somebody saw the heading hours of operation, chapter 497, this would amend 497, I don't understand why we wouldn't put it in -- if it goes forward -- Chapter 494, which is our County Chapter that regulates gasoline stations, the registration of all the gasoline stations, the prohibition, requirements, etcetera. That hours of operation, if you look at the history of that, that was a part of the Chapter that was passed years ago to protect the gasoline station operators from having to -- or being required to enter into contracts with the larger oil corporations that mandated "you sell my gas, you will be opened 24 hours a day, seven days a week." That's the only thing that that Chapter has to do with, period. And now you would add this into that -- I would just suggest it should be in 494, which is our own Suffolk County regulation of motor stations -- motor fuel stations. Thank you very much.

CHAIRMAN CALARCO:

Sure. Thank you, Mr. Gardner. And what I would suggest is perhaps you and certainly our friends from LIGRA please get together with Legislator Stern, this is his resolution, any changes that need to be made should be made by him and certainly should be made before Tuesday when we have our Public Hearing, or at least the issues brought to light for him to consider. Meanwhile, it's an important issue and something we have to figure out. Hopefully this, like I said, maybe there's some FEMA grants out there, something that can help harden our infrastructure including our gas delivery system.

Okay, so I have a motion, do I, Madam Clerk?

MS. ORTIZ:

Yes.

CHAIRMAN CALARCO:

I have a motion to table and a second. All those in favor? Opposed? Abstentions? **IR 2064 is tabled for Public Hearing. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

IR 1971, Counsel, do you have those answers for Legislator Cilmi?

MS. SIMPSON:

With many thanks to BRO, the property is approximately 126 feet by 183 feet.

CHAIRMAN CALARCO:

This for Affordable Housing purposes; correct?

MS. SIMPSON:

Correct.

CHAIRMAN CALARCO:

And I'm sure you probably don't know but does the legislation dictate what the guidelines are for that? 80%, 100% -- listen, anything we can do for Affordable Housing out in Southampton, I'm all for it. I got to tell you, that's not an easy place here for Affordable Housing. One? (Laughter)

MS. SIMPSON:

The initial income for occupancy cannot exceed 80% of the median established income.

CHAIRMAN CALARCO:

Okay. Very good. I have a motion and a second. All those in favor? Opposed? Abstentions? **IR 1971 is approved. (VOTE: 4-0-0-1. LEG. ROMAINE ABSENT)**

I have no other resolutions or no other matters before us. So I will make a motion to adjourn, seconded by Legislator Spencer. We are in adjournment. Thank you.

**THE MEETING CONCLUDED AT 2:24 PM
{ } DENOTES SPELLED PHONETICALLY**