

**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 February 28, 2013.

MEMBERS PRESENT:

Leg. Robert Calarco, Chairman
Leg. William Spencer, Vice Chair
Leg. Kate M. Browning
Leg. Thomas Cilmi
Leg. John M. Kennedy, Jr. (Excused Absence)
Leg. Ricardo Montano

ALSO IN ATTENDANCE:

Presiding Officer William J. Lindsay, 8th Legislative District
Deputy Presiding Officer Wayne R. Horsley, 14th Legislative District
Leg. Lou D'Amaro, 17th Legislative District
Leg. DuWayne Gregory, 15th Legislative District
George M. Nolan, Counsel to the Legislature
Sarah Simpson, Assistant Counsel to the Legislature
Renee Ortiz, Chief Deputy Clerk of the Legislature
Alicia Howard, Legislative Aide
Robert Doering, Budget Review Office
Joe Muncey, Budget Review Office
Benny Pernice, Budget Review Office
Samuel Chu, Commissioner/Department of Labor and Consumer Affairs
Tom Vaughn, County Executive Assistant III
Paul Perillie, Aide to Leg. Gregory
Lora Gellerstein, Aide to Leg. Spencer
Amy Keyes, Aide to Leg. Calarco
Michael Pitcher, Aide to Presiding Officer
Bob Martinez, Aide to Leg. Montano
Justin Littell, Aide to Leg. D'Amaro
And all other interested parties

MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 12:39 PM

CHAIRMAN CALARCO:

Okay, we're going to get started with our Committee here. If everybody could rise for the Pledge of Allegiance led by our new member to the Committee, Legislator Rick Montano.

SALUTATION

Okay. Thank you. And we just have one excused absence today. Legislator Kennedy won't be here because he is a proud grandfather. His daughter had a baby boy. C.J. Ziegler was born this afternoon so we congratulate him on that. And we're told both the mom and the baby are healthy. So we congratulate Legislator Kennedy on the birth of their grandchild.

TABLED RESOLUTIONS

Okay. We're going to get started. I do not have any cards this afternoon. Is there anybody in the audience who would like to address the Committee today? Seeing none, we're going to move right into the agenda.

We will start with our Tabled Resolutions. **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 make a motion to table.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. All those in favor? Opposed? Abstentions? **1927 is tabled. (VOTE: 6-0-0-1. PO LINDSAY INCLUDED IN VOTE. LEG. KENNEDY NOT PRESENT)**

IR 2064-12, Adopting Local Law No. -2012, A Local Law to require gasoline stations to be prepared to run emergency generators for fuel pumps. (Stern) I'll make a motion to table at the request of the sponsor.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Browning. All those in favor? Opposed? Abstentions? **IR 2064 is tabled. (VOTE: 6-0-0-1. PO LINDSAY INCLUDED IN VOTE. LEG. KENNEDY NOT PRESENT)**

IR 2067-12, Adopting Local Law No. -2012, A Charter Law to clarify Legislature's role in collective bargaining. (Calarco). I'm going to make a motion to table. I'm still working on this resolution.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. All those in favor? Opposed? Abstentions? Yeah, that's my legislation. I'm working on a few changes to it. So **IR 2067 is tabled. (VOTE: 6-0-0-1. PO LINDSAY INCLUDED IN VOTE. LEG. KENNEDY NOT PRESENT)**

IR 2093-12, Aiding permanently displaced victims of Hurricane Sandy in the Mastic-Shirley area. (Browning)

LEG. BROWNING:

Motion to table.

CHAIRMAN CALARCO:

Motion to table by Legislator Browning. I'll second the motion. All those in favor? Opposed? Abstentions? **IR 2093 tabled. (VOTE: 6-0-0-1. PO LINDSAY INCLUDED IN VOTE. LEG. KENNEDY NOT PRESENT)**

IR 1002-13 Establishing disclosure requirements for the Department of Labor, Licensing and Consumer Affairs ("Consumer Protection and Awareness Act"). (D'Amaro). I will make a motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. Is there any discussion on the motion?

LEG. MONTANO:

Explanation.

CHAIRMAN CALARCO:

George, can we have an explanation? Counsel? Or through the sponsor?

LEG. D'AMARO:

Yeah, I don't mind jumping in.

CHAIRMAN CALARCO:

Good.

LEG. D'AMARO:

Thank you very much, Mr. Chairman. I appreciate it. Easy access to information to consumers is what the bill is about. And what I did was I was not able to make the last Committee meeting here, but I did listen to the audio, and it was very convenient to have it online, I might add. But I took all of the suggestions that were made during that Committee process and now revised the bill, incorporated all of them into the bill. I don't know if you want me to go through them all or, you know, whatever your preference is.

CHAIRMAN CALARCO:

Sure. Why don't you go through it quickly? And I know there were some questions about how it would be implemented so I think that would be helpful.

LEG. D'AMARO:

Okay. Well, first the bill only requests -- only provides that consumers can request very specific information. And if you look at the front of the bill, it includes a description of the complaints registered against the contractor. It includes the number of violations issued by the Department to the contractor, the description of the nature of the violation with an explanation of how each was -- each violation was resolved.

In the SECOND RESOLVE CLAUSE, it also mandates that the consumer be given information as to how the violations were not only resolved, but what penalties were assessed and whether or not

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they were paid. So it's not as if a consumer is going to say "give me the entire file on a particular contractor." It's very specific information. That was one of the suggestions that came out at the last Committee meeting.

The second thing it does, for all of that information that's being provided, it is limiting it to a looking back period -- a look back window of only five years. So rather than -- and I think Legislator Browning had made this point at the last Committee meeting, rather than having -- if you have a contractor that's been around since 1978 and has a license, rather than going through the entire file, at least you'll be limited now to going back five years and getting pertinent information or up-to-date information with respect to complaints and violations and dispensation of penalties.

Another change that was made was you can only -- the consumer can only request reports or information of this nature with respect to three contractors within any 90-day period. And, again, I think Legislator Browning had raised a valid point that you don't want someone coming in and saying "look, I have 15 contractors I'm considering, give me information on all of them." There had to be some limitation. And I think what that does is it says to the consumer "if you're going to do some renovation or hiring contractors and you're looking at several of them, you need to whittle it down to the three and then you can come to Consumer Affairs and try and get the specific information for the last five years on each of those three."

Another change that was made, and Legislator Kennedy had spoken to this in the last Committee meeting, was with respect to the stenographic record. What the bill does now is -- and I've had experience myself in my District Office with respect to using tape recordings. It's not -- I don't know if it's uncommon, but in my experience I've had instances where I requested the tape recordings and they've been lost. So what the bill now says, it says is if you have a hearing at Consumer Affairs, that you're going to use -- and make a verbatim stenographic record of each administrative hearing, unless both parties agree to go with the tape -- because then the consumer and the contractor are making that choice. If one of the parties does not agree to using the tape, there is a \$50 fee imposed on the non-agreeing party just to help cover some administrative costs. And I know the Commissioner is here. We can talk a little bit more about that specific requirement on the record if he is inclined to do so.

Furthermore, another change that was made, and, Legislator Cilmi, you had suggested this, and I think it was a great idea, if we can make this information available online, it cuts out a lot of the manpower that would be needed, I would expect, to do this. And I agree. So what the bill does in another RESOLVED CLAUSE, is it says -- it directs the Department of Information Technology to work along with the Department of Labor and Consumer Affairs to try and bring this information online. And to the extent that this information is made available, the Department will be relieved of the responsibility of providing it through other means, you know, in written form. So we are hoping to move towards internet-based information, which I think is a great idea.

And, finally, this does not in any way impede the right of a consumer to file a FOIL request and get whatever other information they feel they need. So those are the basic revisions that were made.

CHAIRMAN CALARCO:

Good. Thank you. Sure. Legislator Spencer. And then Legislator Cilmi.

LEG. SPENCER:

My message is -- my question is for Commissioner Chu. How are you, Commissioner?

COMMISSIONER CHU:

Very well.

LEG. SPENCER:

I support this bill. I appreciate what my colleague, Legislator D'Amaro, is trying to do. And I think that I had brought up a concern that, you know, he expands it to that we're getting information on everyone. My Wall of Shame legislation last year was to really try to weed out the bad guys. And at the last Committee, I found out that we weren't able to get that in place. Can you give me any update in terms of moving forward with that? Because obviously the work that we did on the Wall of Shame would be the same information we'd be providing here.

COMMISSIONER CHU:

I'm glad to report that the Wall of Shame is now up online, linked from the Consumer Affairs page. It's not as visually -- as visually stunning as you might like it to be. It's a work in progress but it is up. The information is up. And I would like to work with you. I think we have -- after reviewing it -- this is the first time I laid eyes on it because it was legislation that was clearly adopted before I -- it was under my charge. And I think that we can actually tweak it to make it better, but it is up. It's right -- it links right off the Consumer Affairs website. It's prominent on the left-hand bar. It says Wall of Shame. In fact, it's the first bullet that shows up so -- quite a bit -- we were able to make some progress since our last discussion.

LEG. SPENCER:

Commissioner, I commend you on that. And I thank you for listening to my impassioned plea to affect that wall. So thank you so much. I do appreciate you doing that. And with that, I definitely want to echo my support -- or just express my support for Legislator D'Amaro's bill.

COMMISSIONER CHU:

Our pleasure. And on the reso, I have discussed the -- I appreciate very much -- appreciate the changes. They address all the concerns of the Department we have administratively. On the issue of the stenographer, Legislator D'Amaro and I have had a discussion. I'm confident that -- I'm confident that if the bill is passed, we still have -- we have plenty of opportunity to make sure that we address any administrative concerns we have after the vote. So I am -- I'm glad to support the bill. And it's something that we are confident we can put in place to the benefit of the consumer.

CHAIRMAN CALARCO:

Very good. Legislator Cilmi.

LEG. CILMI:

Yeah, thanks, Mr. Chairman. Let me start by saying that I completely support the goals of this legislation. I think they are laudable. Any information that we can provide to our consumers, I think, is a benefit not only to our consumers, but to us as a government as well. But I do have some concerns, as the sponsor indicated, I had suggested at our last -- at our last discussion about this, that we do this online. And I'm happy to hear that the Wall of Shame is now up and running.

I guess my first question would be what -- of the information that's required by means of -- by way of this bill, what of that information is currently available on the Wall of Shame, if any? And do you anticipate the Wall of Shame being the vehicle to provide any information that might be required in this legislation online?

COMMISSIONER CHU:

Okay, I don't have -- I don't have off the top of my head the exact criteria for the Wall of Shame, but the Wall of Shame is, if I'm clear, and the sponsor's here so I'm sure he can fill in the gaps, the intention is to post the most egregious of offenders.

LEG. D'AMARO:

Commissioner, can I just interrupt also on that?

COMMISSIONER CHU:

Sure.

LEG. D'AMARO:

Because -- and, Counsel, correct if I'm wrong -- is the Wall of Shame really targeted after there's some kind of conviction or something? You just don't -- you just don't have a violation lodged against you and you get put up the Wall.

MR. NOLAN:

It limits it. It's a very small subset, I believe, of contractors. I'm going to try and pull up the law now.

LEG. D'AMARO:

Okay.

MR. NOLAN:

But it's not every contractor for sure.

LEG. D'AMARO:

I apologize for interrupting, but I just want to make we're all talking about the same thing.

LEG. CILMI:

Okay. So that was actually going to be my next question, is that if the Wall of Shame is only for violators, a resident might want to, you know, the three contractors that they're looking at, might not be violators at all; they might be upstanding businesses.

COMMISSIONER CHU:

Uh-huh.

LEG. CILMI:

So the Wall of Shame wouldn't address the informational needs of those residents in those cases. So my question, then, would be, then, to the Administration, to say how much of a priority would this be to put that information online? Tom, can you speak to that?

MR. VAUGHN:

I'm going to defer to the Commissioner.

LEG. CILMI:

Well, it's really not -- I mean, I don't know that it's -- I guess it's an IT thing and --

COMMISSIONER CHU:

I mean, I could -- I think I could speak to it. I have several, you know, capacities which I can speak to from. One, actually your point, Legislator, is right on target that, you know, the Wall of Shame is, you know, for the most egregious of offenders. Not just anybody can get on the Wall of Shame. It's a Wall of Shame, after all. And to the point of IT solutions, it coincides with the broader -- the broader IT's solutions that -- and broader IT priorities that we have, I think, not just for this particular departmental function, but also for the administration as a whole that enables, you know, proper data tracking, data decision -- data driven decision-making.

So the broad priority being that we have accessibility to data that allows us to be nimble as we function. What coincides very well with that is that if you do have well-organized data, it makes it much easier to present things such as this when you can do a query based on a subset -- certain set of data that will generate very easily once you've done the harder -- the harder job, which is organizing all your data.

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So I would say this serves -- you know, this in line with specific goals of making sure we're properly addressing access information to the consumer, but I would say also coincides perfectly, you know, with the many goals of making sure we have our data well organized to make sure we're operating efficiently.

LEG. CILMI:

So you would consider it a priority, then, to get this information online?

COMMISSIONER CHU:

I would consider it a priority, yes. And --

LEG. CILMI:

So how quickly would you anticipate that happening?

COMMISSIONER CHU:

I would phrase it as this: I consider it a priority for us to put in place the systems that allow us to have easier and very convenient access to data for the purposes of management.

LEG. CILMI:

Yeah, that doesn't really answer my question. I'm sorry to interrupt you, Sammy, but --

COMMISSIONER CHU:

I'm not finished. Just let me finish. And I would say once that was -- that's the priority. And once that was accomplished, that this would be -- this would be a simple task to perform once we were able to do that.

LEG. CILMI:

Okay, but that's a very broad, sweeping statement. So what -- when do you think that would happen? And I ask the question because I have a copy of the Financial Impact Statement in front of me. And it's suggesting that there is a financial impact. It looks like -- according to this, we would have to hire at minimum two full-time employees to accomplish the goals.

COMMISSIONER CHU:

And that's why it's important to contextualize this, because I would say -- and that's why the answers need to be answered together, because if we were to just set out in an effort in a myopic way to address what the mandate of this legislation is, which is, again, is a -- falls along with our priorities, without considering the larger picture, which we are certainly working diligently to address in a discovery phase right now, but certainly -- implementation is -- implementation phase is forthcoming. And I think that maximizes the resources that will be dedicated to this. And this -- this, again, will be something that if you do a fiscal impact in the -- again, with the singular view of this, I think it doesn't do it justice because we are -- it's also -- this becomes part of a much broader effort, which is, again, to bring access data to our modern times.

LEG. CILMI:

Okay. Let me ask you this: Where's the offset on this? Can anyone tell me where the offset would be? Some of my bills have failed as a result of not having offsets. Although they're not budgetary bills by nature, but there is fiscal costs associated with some of these things. There's obviously a fiscal -- financial impact to this, but I don't know where we're going to get the money from. As our esteemed Presiding Officer has said many times, we don't have any money. So where are we going to find the money for this?

COMMISSIONER CHU:

Is that question addressed to --

LEG. CILMI:

Sure. You're in charge of managing the budget, so.

COMMISSIONER CHU:

Well, again, the concern we have -- the concern I had as the administrator with the bill initially was the potential for a deluge of requests. That was addressed. I'm confident that with the, you know, with the -- addressing that concern in a much more modest workload that -- or mitigating the potential workload, you know, per consumer request, I'm confident that we can handle that with current staffing.

LEG. CILMI:

Okay. So, you disagree with Budget Review's analysis here.

COMMISSIONER CHU:

Well, I haven't seen Budget Review's analysis.

LEG. CILMI:

Well, I'll read it to you if you haven't seen it.

COMMISSIONER CHU:

I couldn't speak -- I couldn't speak to whether I disagree with it or --

LEG. CILMI:

Well, it says very plainly the Department -- the Department estimates -- the Department estimates -- which I guess is you -- the Department estimates the additional requirements established within this resolution would necessitate the addition of no less than two full-time employees and possibly more dependent upon demand from consumers. Did you not say that to our Budget Review Office? And if not, I would ask our Budget Review Office where they got this information from.

COMMISSIONER CHU:

I would have to get deeper on that. That might have been an initial -- I mean that might be a layover --

LEG. CILMI:

I was handed this two minutes before the meeting.

COMMISSIONER CHU:

-- a layover from -- it might be a layover from the initial concerns we had with the bill. But, again, I'm speaking to you confidently that we can absorb the workload again. The only -- the only issue that -- and I think it's being addressed properly is with the fee for the stenographer, so.

LEG. CILMI:

All right. So I'll turn to Budget Review, then. From whence this came?

MR. DOERING:

Those figures were provided to us from the Deputy Commissioner, Bob Meguin.

LEG. CILMI:

When?

MR. DOERING:

It was provided to us initially when we went to the first go around of the resolution before it had been altered. In the interim I did reach out to him, though. He did not return my e-mail, actually.

COMMISSIONER CHU:

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Commissioner Meguin's on vacation. So I think that -- he hasn't been in the office so. Unfortunately it seems like we let it slip through the cracks. But I'd be glad to offer our vision on that.

LEG. CILMI:

That is unfortunate. So according to you, then, Commissioner, there would be no financial impact to this resolution whatsoever. You estimate that you could do the work required in this resolution with current inhouse staff. And, Budget Review, based on the revisions that you've now had an opportunity hopefully to see, I mean what are your thoughts?

MR. DOERING:

We would have to defer to the Department since they would be more familiar with their workload and how they would accomplish the implementation of this.

LEG. CILMI:

Okay. And Department says that they can do it with existing staff, so, I guess if that's -- if that's what they are committed to -- Tom, I see you're walking up towards the microphone. Do you have any other input?

MR. VAUGHN:

No, sir. I'm quite confident with the information that the Commissioner and Director of Operations has provided.

LEG. CILMI:

All right, terrific. As long as -- as long as we're sure that there's going to be no fiscal impact to this resolution, then I'm happy to support it. And I'd encourage the Administration to work as quickly as possible to put the information online, because that would surely be a much more effective and efficient and 21st Century method of handling this information.

COMMISSIONER CHU:

Sir, I would note, one, that, again, the goals of this legislation fall in line with efforts that are already underway to --

LEG. CILMI:

Yes, I support the goals. It's not the goals I'm worried about, Commissioner.

COMMISSIONER CHU:

And we do appreciate -- I would say -- and this bill, which is not -- is not always the case, we do -- and the sponsor did put in a fee that addressed a service that we're providing, which we -- I certainly appreciate that there was a fee introduced that did recognize that there was a cost to the Department and the County.

LEG. CILMI:

What is that fee again?

COMMISSIONER CHU:

For the stenographic recording.

LEG. CILMI:

Is there a fee for the consumer?

COMMISSIONER CHU:

According to the bill, it's the -- if both parties agree to receive a recording, which is currently the status quo process in place, then that would be fine. If either party felt that, you know, just a

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recording of the hearing was not to their satisfaction and they wanted to have it recorded by a stenographer, the party that was not in agreement with settling for just a recording would be -- would pay a \$50 fee to have that recorded -- to have that record created.

LEG. CILMI:

What about for the provision of any paperwork necessary, is there any fee associated with the number of sheets of paper that will be provided or the cost of mailing that paperwork to the resident?

COMMISSIONER CHU:

No, that fee is not addressed. Again, I think that it's something that we do provide a record. We do provide information to the public now. I think the --

LEG. D'AMARO:

I'll order one less ream of paper for my office next year and that will take care of the paper.

COMMISSIONER CHU:

Thank you.

LEG. CILMI:

I guess you don't expect it to be too widely used.

LEG. D'AMARO:

I jest. But I have to say that if you look at the bill itself, the description, you know, you're talking about maybe one piece of paper would give, you know, "here are the violations, here's a brief description going back five years." I don't think it's going to be -- I know at the last Committee meeting there was concern -- the Commissioner had concern as well about reams and reams of paper, but -- and with your suggestion, too, the more we can get this online, the better. And I'm all for that. But certainly by pairing down the information that needs to be required, I don't think -- I don't think -- I think it's de minimus at this point.

LEG. CILMI:

Okay. If that's how -- if that's what you think -- I'm just -- you know -- we're all concerned -- we're all concerned about our budget. We have a Fiscal Impact Statement that says at the minimum two additional staff members. So I'm a little concerned that it's going to be more cumbersome than what you're presenting to us.

LEG. D'AMARO:

Right. Well, I don't think it will be. But what I will tell you, Legislator, is that my communication with the Department after the revisions was that we can do it with existing personnel. But I'll tell you this: To the extent that they need more personnel, if they come and request it, I'll put the bill in. Because I think this is that important. I don't see -- why do we have a Department of Consumer Affairs if you're going to spend 50 or a hundred thousand dollars renovating your home, you can't get this information before you hire a contractor. What's the point?

LEG. CILMI:

There are many ways to check on the -- you know -- the standing of businesses in Suffolk County with a variety of methods. That being said, I don't disagree with your point. I don't disagree with giving access to information to our residents. I just think we should do it in the most cost effective way possible. And clearly the internet is the way to do that. And so in times of, you know, dire fiscal conditions, we have to find cost effective ways of doing things. And I want to make sure that it's a priority that we do that, that we put the information online and that it's not going to be, you know, overly cumbersome to our Department, that it's not going to take away from other things the Department is doing. I mean, it's taken, I don't know how long for them to get working on the Wall

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of Shame. We passed that bill last year. So I just -- there's reason to ask these questions clearly. So, I appreciate the Administrator's answers. Again, I appreciate the intent of the bill. So I'll support it.

COMMISSIONER CHU:

And just to the point of the -- not for the sake of keeping the conversation going, but to the point of the paper, and I did have that concern, and paper is certainly a cost, the way the information is now presented, the limiting of the information that we are required by the bill to provide to the consumer, it allows us to, I think, be limited unless -- unless we have someone who has many, many, many violations, which they would be on the Wall of Shame, in most cases we're limited to a single sheet of paper. So, I think -- and in most cases we will now and our preference will be communicating this through PDF to their e-mail, in which case we shouldn't have to print it out at all, so.

LEG. CILMI:

If I can just ask our Budget Review Office to then revise their Fiscal Impact Statement before Tuesday's meeting so that in the event that this bill passes through this Committee today, we have to vote on it on Tuesday, that the information that was provided by your office is accurate.

COMMISSIONER CHU:

Any information you need, you can contact me directly. Again, Deputy Commissioner Meguin is on vacation.

LEG. CILMI:

Thank you.

CHAIRMAN CALARCO:

Okay. Legislator Montano.

LEG. MONTANO:

Good morning. Just really quickly, this information, it's not available now? I mean, I thought this information was available.

COMMISSIONER CHU:

The information is available. If a consumer wants to make a FOIL request, I'm not going to speak fully, but I'll just say this much: I think it was the intent of the sponsor to make it more readily available and not have the consumer have to go through the FOIL process to get certain information that they would like to have to make a consumer decision.

LEG. MONTANO:

Just so I understand clearly, you're saying that the information is available to the consumer, but right now it has to go through a FOIL. And if they made it directly to your office, you wouldn't provide this information?

COMMISSIONER CHU:

Right now a homeowner can make an inquiry, you know, prior to the passage of the bill and we would provide the -- how many -- information to the homeowner how many violations that a contractor had opened -- had unresolved.

LEG. MONTANO:

What's -- Counsel, what's the rule on FOIL? Is it five days or ten days? I thought it was five days. I might be wrong.

MR. NOLAN:

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I think you have to contact the person within five days. If they require additional time, they have to inform the person that there will be additional time required to provide the information. But I believe contact has to be made within five days.

LEG. MONTANO:

Right. So if somebody -- if I wanted to FOIL this information and -- aside from this bill and the present procedure, I'd submit a FOIL request is what you're saying; am I correct?

COMMISSIONER CHU:

Yes. And more extensive information would be available. I would say -- it wouldn't be our preference to promote, you know -- you know -- you know, people making FOIL requests, so.

LEG. MONTANO:

No, I agree. But would it take you more than five days to gather this information? I mean, just these five points here, these four points here, I mean I don't think they're -- I have to be honest with you, I thought this information was readily available. And I thought it was already available to the public. So I'm surprised that it's now coming in the form of a bill, but I could be mistaken.

COMMISSIONER CHU:

Again, the information that's being made readily available now when a consumer makes an inquiry is the number of outstanding violations.

LEG. D'AMARO:

Can I --

LEG. MONTANO:

Yeah, go ahead, Legislator D'Amaro.

LEG. D'AMARO:

I really appreciate your questions. Because I was as surprised as you are now showing.

LEG. MONTANO:

Shocked is more like it.

LEG. D'AMARO:

Yeah. Because what my experience had been in the office -- and I'm not going to say that in the sense that the Department was doing anything nefarious or wrong; it was just the way standard operating procedure was. But if you're a consumer and you call up for information, the only information you're really given, as the Commissioner's just confirmed, is the number of violations against the contractor. Well --

LEG. MONTANO:

You're right; that's not enough.

LEG. D'AMARO:

So I'm -- but not the nature of the violation. So how do I make an informed decision? You know, maybe the contractor -- maybe someone made a complaint that had no basis and was dismissed? But you don't even know that.

LEG. MONTANO:

Yeah. No, I agree.

LEG. D'AMARO:

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So in fairness to the contractor and the consumer, I figured let's get a basic minimum amount of information out there immediately to the consumer. By the way, FOIL process is discretionary. You can deny a FOIL request. And there's an appeal process, as you know. What this bill does, it says FOIL is still available; if you want to go that route, that's fine. But a minimum amount of information should be quickly and readily available to consumers so they can make an informed decision.

LEG. MONTANO:

Right. Well, the FOIL request could be denied, but there would be no basis to deny this kind of FOIL request. Unfortunately what I think they do is they send a standard letter saying "we got your FOIL request. We'll respond in five days and we'll give you a response in four to five days when we have time."

LEG. D'AMARO:

Correct. Correct.

LEG. MONTANO:

Which is inappropriate.

LEG. D'AMARO:

Right.

LEG. MONTANO:

But, yes, I am surprised that this was not available. I thought actually that it was readily available. And it's good information.

One other quick question, Commissioner. The \$50 fee to offset the cost of the stenographic record, right now -- I think I heard you say that the procedure is to have a tape recording of the hearings as opposed to an actual court stenographer; am I correct in that?

COMMISSIONER CHU:

That's correct. And if anyone wants a copy of a recording for a fee of \$2.50, we will make it available in the form of a CD.

LEG. MONTANO:

Now, if somebody is willing to pay the \$50 for purposes of having a stenographic record made, how much is it costing -- first of all, who's paying for the stenographer? Fifty dollars is not going to cover a stenographic record for a hearing. So who's paying for that? Are we using a County employee? Are we using an outside employee? How does that work?

COMMISSIONER CHU:

Again, these are -- that was the one outstanding issue, which I've had discussions with the sponsor with. And, you know, I'm confident that I think we can work it out and mitigate any costs. And I'll defer to the sponsor.

LEG. MONTANO:

Yeah, I'll ask the sponsor if you would just -- so I know the procedure.

LEG. D'AMARO:

Sure. Another good question. Right now the way the bill is set up -- I've had not necessarily good experience with this whole tape recording thing; doesn't really work for me. You know, these are hearings. They are fines and penalties imposed. I think they're appealable. I think they're appealable.

MR. NOLAN:

Yes, Article 78.

LEG. D'AMARO:

Yeah, Article 78. So, you know, you're in a quasi-judicial administrative hearing, there should be a record. That was my starting point for this.

LEG. MONTANO:

I share that with you. There should be a record because there are consequences to the rulings.

LEG. D'AMARO:

Right. And even if you don't lose the tape, what if you can't understand what's being said? So -- and it could be crucial. That's number one. So what I did in the bill is I said "okay, we're going to mandate the stenographer; however, if both parties are willing to say we'll go with the tape, that's great. If not, if one party says "I want the stenographic record" then you're going to be charged the \$50 administrative fee.

The purposes of the fee is not to cover the -- really the cost of making the record. It's really to just give the party who says "I want the record, the stenographic record," let them think about it a little bit because there's a cost to doing it. So it gives you a little pause. Because if you had no fee, then everyone would just say all the time "give me the stenographic record." But here you have a \$50 fee. Do I want to pay the fee? Do I really -- you know, if you're bringing a claim against the contractor for \$1200, you know, a consumer may make the value judgement that I don't need to pay another 50 bucks for this written record. It's not going any further anyway so there's that option and that's the way it's set up. I'm not trying to cover the cost of the stenographer.

LEG. MONTANO:

Right. Because you can't. Fifty dollars only covers the appearance.

LEG. D'AMARO:

Fair enough. But I will say -- and, Commissioner, you can correct me on this -- but I don't think the hearings go all that long usually.

COMMISSIONER CHU:

Sometimes very brief; typically no more than an hour.

LEG. D'AMARO:

Yeah. So we have some options we can look at. One is, you know, most of them are pretty brief. So if you're making a record, someone's at least putting in \$50. If both parties want it, they get a hundred dollars to help defer the cost. So, I don't think it's going to be an onerous cost here.

LEG. MONTANO:

Right. But the question that I have specifically at this point is, assuming someone pays the \$50, who pays for the -- we pay for the stenographer, then. We have to get a stenographer; am I correct? Because right now you don't use one. Am I correct in that?

COMMISSIONER CHU:

That's correct.

LEG. MONTANO:

All right. So now we have a hearing. I'm the consumer. I'm willing to pay the \$50 for my stenographic record. Or I represent the contractor and I'm willing to pay 50 cents (sic). We bring in the stenographer. Where do we get the stenographer?

COMMISSIONER CHU:

Well, again that's the initial conversation, the conversation that we've had being the one outstanding concern. And the \$50, also, I think would serve the purpose of, one, being -- serve a purpose well of being a deterrent for consumers --

LEG. MONTANO:

Right. But put that aside, because in my example, I've met the deterrent. I'll pay the \$50. Who's paying for the stenographer and where is the stenographer coming from? Is the stenographer a County employee like we have here or do you have to go out and contract an independent agency to provide a stenographic record? And, you know, where's the budget for that? That's the only question I'm asking. I'm not trying to give you a hard time.

COMMISSIONER CHU:

I'm headed in the same direction you are, Legislator. We can work around -- one of the potential -- potential scenarios that we discussed was that we could work around the schedules of the stenographers that the Legislature has on staff to do that work even if it's a back charge situation to the Department --

LEG. MONTANO:

Even if it's what? I'm sorry?

COMMISSIONER CHU:

Even if it's a back charge situation to the Department at Consumer Affairs. This is the issue that we're hoping to work out. And I'm confident that we can. I think -- I think there's resources available that will allow that to be worked out. And again if --

LEG. MONTANO:

Well, let me, if I may -- go ahead.

COMMISSIONER CHU:

If I may, I think, again, the \$50 does -- will do a pretty good job of mitigating the volume of these requests.

LEG. MONTANO:

Okay.

COMMISSIONER CHU:

I don't think we're going to -- we're looking at hundreds --

LEG. MONTANO:

I'm with you on that. But going back to the issue that Legislator Cilmi brought up, with respect to the fiscal impact, I'm trying to get a fix as to, you know, number one, I'm not clear on -- are you using inhouse stenographers or are you going to subcontract? Number two, I don't know how many times you have these hearings. And I have no way of guessing how many are going to require a stenographer. But if they are going to require a stenographer, and if they are numerous, then there's going to be a cost factor associated with that. And if there's a cost factor associated with that, there's going to be a fiscal impact, which needs to be addressed in the Fiscal Impact Statement. That's essentially what I'm driving to. And I'm not sure that I'm clear on the answer. Do you follow me, Commissioner?

COMMISSIONER CHU:

Yeah, I follow you.

LEG. MONTANO:

So do you have -- you know -- I mean, can you -- can you tell me now what your policy is or is not going to be?

COMMISSIONER CHU:

Again, we are --

LEG. MONTANO:

What was that, Mr. Chairman? Okay, I'm sorry.

COMMISSIONER CHU:

We're still -- we're still exploring the different options we would have to address the issues.

LEG. D'AMARO:

Rick, if I may?

LEG. MONTANO:

Go ahead, Legislator D'Amaro.

LEG. D'AMARO:

Yeah, the Commissioner's right. There are -- and we just discussed this while we were revising the bill. Again, the \$50 is not obviously covering costs, right. It's just more of a deterrent or a stop-and-think kind of fee. Think about it if you really want to go that route.

LEG. MONTANO:

We don't really want to put out there that we're trying to dissuade people by charging them money from something that they're really entitled to.

LEG. D'AMARO:

Right.

LEG. MONTANO:

But I get you. I get you. We're there.

LEG. D'AMARO;

All right. So, there's some administrative hearing taking place. You've made a complaint. You're a consumer. I don't want to charge the consumer \$500 or \$300 to get the transcript of the hearing, where they're pursuing their rights, which they must pursue. You can't go to court without exhausting administrative remedies, as you know.

LEG. MONTANO:

Right.

LEG. D'AMARO:

So I don't want to put that fee onto the consumer. I don't want to do that.

LEG. MONTANO:

No. And actually, if I may, I'm thinking that the consumer could probably care less. I'm thinking that the contractor, who has more to lose, is going to say "I want a record because my business is going to be adversely affected and I'm willing to pay the \$50."

LEG. D'AMARO:

Maybe. So my thinking was this: The Department's going to be -- if we pass this bill, they're going to have the rest of this year to look at this. And then we're going to get more of a handle on how

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many hearings, what's the cost. And then we can address that in the budget. Also, what I'd like to explore, which I haven't done yet, is I know that the Vanderbilt Museum, I believe, uses the Legislature's stenographer services. I'm not sure -- what's that? And Space Management also, too. And I'm not sure how that's charged back or how -- if we have an existing contract. I don't know the nuance of all of that, but that would be inhouse that we could explore as well.

So whatever the cheaper way to do it, I think we need almost like a pilot period to find out, well, how many people are actually requesting the transcript, what's the actual cost, how do we address that in the budget and what's the cheapest way to do it? So I think we'll find that out once we implement the bill. Again, with the \$50 fee not covering the cost, you know, grant it, but we really don't know. We really don't know at this point how many folks are going to request -- we may wind up making tapes of 90% of these hearings anyway. It may be a non-issue. Then, again, if everyone's requesting it, and they're only paying 50 or a \$100 towards it, and there is a cost to the County, well, it has to be addressed in the Department's budget or it has to be addressed by doing it inhouse and we'll take a look at that.

LEG. MONTANO:

Last question, do you have -- either one of you have a number of how many hearings we do in a year? How many did you do last year, do you know?

COMMISSIONER CHU:

I don't have that information offhand. I don't know off the top --

LEG. MONTANO:

Approximately? Legislator D'Amaro, do you have any idea how many hearings we're talking about? Someone's got to know.

MR. NOLAN:

Justin Littell, I asked him that very question. He told me they do about 75 hearings per year.

LEG. D'AMARO:

Seventy-five. Okay.

LEG. MONTANO:

Seventy-five hearings. You said -- I would imagine that a stenographic record, Legislator D'Amaro, you do this also, probably be about \$400 for a quick hearing?

LEG. D'AMARO:

Depending on the length, yeah.

LEG. MONTANO:

Yeah, for a quick one.

LEG. D'AMARO:

Three to four. Three would be rock bottom, I would say.

LEG. MONTANO:

Exactly.

LEG. D'AMARO:

Yeah, yeah, yeah.

LEG. MONTANO:

So 300 times 75 comes to -- minus the 50 that we're collecting, you know, do the math and that's

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where we're at. Now, if we don't have enough stenographers available because they're doing other work, then you either have to delay the hearing or you have to go outside and get a contractor.

LEG. D'AMARO:

Yeah. And I think what the Department ultimately would do is defer to the most cost effective way, which would probably be using existing staff but -- and then have a backup list or something like that, if you really need it, to get a hearing done one day as opposed a week later.

LEG. MONTANO:

Thank you.

LEG. D'AMARO:

And I appreciate those questions because these are the nuance that need to be worked out in the Department, but I can't address all of that in the bill. And I don't know how many folks are actually going to request the stenographer as opposed the tape recording.

LEG. MONTANO:

Got you. Thank you.

CHAIRMAN CALARCO:

Good. Legislator Cilmi, you had another question?

LEG. CILMI:

Just forgive me for belaboring this point that Legislator Montano is talking about, but I'm a little bit confused because if -- if somebody's requesting a stenographic copy of a hearing that already took place, then don't -- wouldn't we have -- or am I confused? Wouldn't every hearing at that point have to be --

LEG. D'AMARO:

No, no, no. You make the decision at the time of hearing whether you want to go with the tape or whether you want to go with the stenographer.

LEG. CILMI:

I'm sorry. So I'm a consumer and I'm hiring a contractor and I want to determine whether or not there's been -- I'm looking for information on that contractor's history. And I say to the Department "I want a copy of the hearing --

LEG. D'AMARO:

No.

LEG. CILMI:

-- that took place." Am I just misunderstanding?

LEG. D'AMARO:

The hearing goes to when there's an actual hearing for your violation that's being heard as a consumer, not for prior violations.

LEG. CILMI:

Okay.

LEG. D'AMARO:

We're only providing specific information for prior complaints and violations. Not hearings. Okay. Not hearings.

LEG. CILMI:

Okay.

LEG. D'AMARO:

So then let's say you're that consumer and you make the complaint and the Department determines there's an administrative hearing going to be held, that's when you'll have the choice to decide whether you want to go with the tape or with the stenographer.

LEG. CILMI:

Okay. And so -- all right. So, I'm a consumer. I request information from the Department. Based on that information I hire a contractor. The contractor does work for me. And now sometime -- at some point subsequent to that, I have a problem with the contractor. So that's really a whole different aspect of this bill. It's really -- there are really two parts to this bill.

LEG. D'AMARO:

It is. And I felt it was important to include here, though -- excuse me -- and I know Legislator Kennedy had this concern, similar experience that I had, where once you get into -- if you hire a contractor and everything goes fine, that's great, you're done. They get paid and everyone's happy. You hire a contractor and something goes awry, now you're going through a hearing process. And what I've found is, if the tape gets lost, it gets lost, they get old, if they're not preserved properly, now you get into, you know, you have to maintain them in 55 degree rooms, the tapes, for long periods of time. What's the statute of limitations on all of that? And then you get into -- it's not audible. You know, so I'm trying to address not only getting information to a consumer when they're hiring, but if you get into a problem, at least you know that if you get your hearing, you have an opportunity to have a written record. Because, you know, maybe on the \$1200 claim you're not appealing. But let me tell you, if you got a \$70,000 dormer going up or whatever it cost today, and you have a real claim, you want that verbatim transcript if you're going to Supreme Court with an Article 78.

CHAIRMAN CALARCO:

Legislator Lindsay.

P.O. LINDSAY:

Yeah, let me start out by saying that I'm a hundred percent supportive of the bill. I probably have a little bit more knowledge of the workings of the Department than a lot of you because I was on the Consumer Affairs Electrical Licensing Boards for many years. So, I'm very familiar with their processes and about some of the characters that we ran across over the years.

As far as the efficiency, I think, that at any time you get the consumer more involved, dealing with the agency, the consumer's going to make an informed choice upfront and he's not going to hire that contractor. So there isn't going to be as many complaints. I mean, we found year after year consumers hiring the same bad contractors just because they didn't -- they didn't inquire as to the status of that contractor. And the obvious place to ask that status would be with the county agency that licensed them. So I'm all for getting the consumer more involved in working with Consumer Affairs as far as finding the record of contractors.

I also would like to say that I'm shocked about the number 75 hearings. Because when I was here, there was a minimal amount of hearings; minimal. And at one point we had a Commissioner who took the position that he didn't think he had the right to hold hearings, which was shocking to me.

So I think this goes a long way to start to clarify some of the methods within the Department. And, by the way, this is a department that kind of is overlooked at times. But in terms of dollar for dollar, for what it provides to the County taxpayer, they get their monies worth over and over again. Because it provides a very, very valuable service. I mean, this Department has in the years that

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I've been connected with it, has run the full gamut of activities. I saw them run stings, where they actually set up a phony homeowner and used to call in particularly chimney repairers, because they were notoriously -- fly-by-nights. And they would come in and say they have a license and they'd give the homeowner a quote for several thousand dollars and we already had it inspected. There was nothing wrong with the chimney.

So there's a lot of fly-by-nights out there. And anything we can do to improve the system, I think, is well, well worth it. And, again, I wholeheartedly support Legislator D'Amaro's bill.

If can just talk to the Commissioner, Mr. Chairman. Commissioner Chu, you -- recently you've gotten a lot more responsibilities besides Consumer Affairs; is that true?

COMMISSIONER CHU:

I would say that's pretty accurate.

P.O. LINDSAY:

What other responsibilities do you have?

COMMISSIONER CHU:

I was asked to accommodate the role of Director of Operations for the County in addition to my role as Commissioner of the Department, which encompasses moving forward certain priority -- coordinating different agencies to perform and satisfy certain major policy goals in the Administration.

P.O. LINDSAY:

And how is one melding with the other?

COMMISSIONER CHU:

I would say they're actually superficially they may seem non sequitur but they actually align very well. And, again, to the point that Legislator Cilmi and I were -- had an exchange on earlier, a lot of the issues that we see at the Department of Labor, all the functions in the Department, which are broken out to Labor, Licensing and Consumer Affairs, relate contextually to much larger issues. And I think as we move forward, you know, with the budgetary issues that we have that face us year after year and unfortunately will probably continue to face us, it's important for us to make sure we're not looking at all these departments in silos. So, they actually meld a lot -- I'm sure a lot better than most people would think just by taking a glance at the titles and the tasks.

P.O. LINDSAY:

So you don't have any problem doing the Commissioner's job with your additional duties?

COMMISSIONER CHU:

Well, I think I don't. You might want to ask my wife, but I personally don't. She would probably have a different answer.

P.O. LINDSAY:

Okay. I'm glad to hear that.

COMMISSIONER CHU:

Thank you for asking.

P.O. LINDSAY:

Again, the Department, the history of the Department is troublesome. Because over the last probably fifteen years, we went from a highly efficient operating department to one that was really horrible, is the only way to explain it, and non-existent. For a while there I don't think there was

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anybody in charge of the Department. And that was unfortunate. Because whether my colleagues know it or not, this Department is one of the few departments in County government that actually makes money. And they make a lot of money. And I don't think that we give enough attention to it. That's all. So I applaud this bill. Thank you.

CHAIRMAN CALARCO:

Thank you. All right. And I no further comments. We have a motion and a second. All those in favor? Opposed? Abstentions? **IR 1002 is approved. (VOTE: 6-0-0-1. PO LINDSAY INCLUDED IN VOTE. LEG. KENNEDY NOT PRESENT)**

INTRODUCTORY RESOLUTIONS

Moving onto Introductory Resolutions, **IR 1046, Granting a temporary waiver of Suffolk County residency requirements for the employment of Timothy Ruggeri. (County Executive)**

P.O. LINDSAY:

I'd like to make a motion to approve with one correction: I think this document is faulty. It says it was sponsored by the County Executive. To the best of my knowledge, the County Executive can't sponsor bills in this body. It would come through my office; so it should be my name on the bill.

CHAIRMAN CALARCO:

Okay. We have a motion to approve. I'll second the motion. We will note that correction, Presiding Officer. Do we have any other motions?

LEG. MONTANO:

I have a question.

CHAIRMAN CALARCO:

Okay.

LEG. MONTANO:

Yeah, that's my question. Does anyone have a question? (Laughter) Since no one has a question, I'll ask one. I'm looking at the bill here and -- where's the bill? This person is already working? Hi, Tom.

MR. VAUGHN:

Good afternoon, Legislator. How are you?

LEG. MONTANO:

I'm well. Thank you.

MR. VAUGHN:

Yes, sir. Mr. Ruggeri is currently working. We have -- and I'm sure Mr. Nolan can correct me if I'm wrong -- the Charter says that we are allowed to hire provided we put the bill forward, which we have done. So he was hired and we put the bill forward.

LEG. MONTANO:

Oh, is that the Charter, Mr. Nolan?

MR. NOLAN:

Well, I'm looking at the Charter section right now. And it states that subject to paragraph B, a nonresident may otherwise be employed provided the County Executive proposes a resolution to the Legislature, you know, allowing the employment of a nonresident. And that it could be -- the person

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can be employed up to one year. And it gives a certain amount of time that the Legislature has to act on such a resolution. In the -- I mean --

LEG. MONTANO:

How much time do we have under this statute? How much time do we have to act?

MR. NOLAN:

Sixty days after it's laid on the table. And if we fail to act, then the resolution is deemed approved. It doesn't really speak to the -- directly to the question of whether you're allowed to employ a nonresident before such a resolution is enacted. I think the best practice is try to get this resolution passed prior to the employment, but the Charter is not completely clear on that point whether it's legally required.

LEG. MONTANO:

All right. So, if I understand this correctly, then, we're at odds over whether or not the employment of the -- of this particular individual was proper since he was hired before the resolution was approved? Am I understanding that correctly?

MR. NOLAN:

The language reads like this: And I think that's probably why Mr. Vaughn is taking the position he is. It says a nonresident may otherwise be employed provided that the County Executive proposes a resolution to the Legislature, etcetera. So what he's saying is since they proposed a resolution, this fellow can be employed until such time as we act on it. And what I'm telling you is when I read this section, it's just not clear. It doesn't say that he cannot be employed before the resolution is passed. It does not say that.

LEG. MONTANO:

Right. And I know when I first got elected, I employed a nonresident, but the person wasn't employed until after the resolution passed, so.

MR. NOLAN:

I think sometimes it's a payroll problem also. I think that maybe certain departments would say "we're not going to -- we're not going to put a person on the payroll until we have the resolution." But that's not really what the statute says.

LEG. MONTANO:

Right. So what you're telling me, then, is at the time that you made the appointment -- this is not an error -- in other words, you just simply said, well, someone made a decision that we can appoint first and submit the resolution subsequent. Is that -- is that your interpretation?

MR. VAUGHN:

Actually, sir, I believe it was the interpretation that was provided to us by the Department of Civil Service.

LEG. MONTANO:

Okay.

CHAIRMAN CALARCO:

That's it? Legislator Browning.

LEG. BROWNING:

Yes. I'd like to know exactly where this person's home is. Because it's my understanding he lives in Brooklyn. And I know that when we agreed to some of these waivers, that it would be for specific job titles that maybe we may not find somebody within Suffolk County. Now, this job title, if I'm not

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forgetting anything -- I hope not -- I know that we had layoffs of people in Public Information in the Police Department, who have a background in what this person does. Would we not be wiser to have a Suffolk County resident, who has been laid off, bringing them back, giving one of them a job rather than hire somebody from Brooklyn? Because I'm sure there's plenty of Suffolk County residents who could do the job that this person's doing. So -- and I think we're now -- we agreed to this waiver for one reason and one reason only.

And I think now we're basically saying "okay, well, we agree to the waiver for specific job titles and jobs that were hard to find somebody maybe within Suffolk County" but now we're saying "okay, well, not this time, you know, we're going to forget about it this time, but let's not do it next time." And I hate to say it, but didn't we do something like this a month ago on a Legislative approval, which I disagreed with?

MR. NOLAN:

Well, that's true. We did do a resolution at the beginning of the year for a Legislator who was hiring an aide from Nassau County. And we do these types of resolutions periodically; every couple of years we do pass a waiver and allow somebody temporarily work for the County, usually with the idea they're going to move into the County within the year. And I -- from speaking with the County Executive's people, I believe that's the intention with this particular fellow.

LEG. BROWNING:

Well, again, we've laid off County workers who worked in our Police Headquarters in Public Information. I think that's where we should be going first. So with that, I can't support this when we know that there's people who are Suffolk County residents who are possibly still looking for a job.

CHAIRMAN CALARCO:

Legislator Montano, do you want to add something?

LEG. MONTANO:

Yeah, I just want to be clear, Legislator Browning. My -- maybe I'm wrong -- maybe I'll direct this to Counsel -- my understanding is that the waiver that we -- that you're referring to was a waiver that we passed when the County Executive was elected. And that waiver extended to Nassau County residents. This is not a Nassau County resident. This is further removed. Am I correct on that, George?

MR. NOLAN:

That's correct. We've actually changed the law last year. And that's not what I was speaking about, but we did pass a law last year to allow certain Executive appointments to come from Nassau County. So we essentially got rid of the Suffolk-only requirement for certain Executive appointments. This obviously is somebody from Brooklyn.

LEG. MONTANO:

Right.

MR. NOLAN:

So that changed the law. It does not affect him.

LEG. MONTANO:

But that law doesn't apply to this situation. And the other issue is that this now is after the fact. Legislator Browning, I mean, I agree with you. It would be nice to say that we should look to Suffolk County and those people that were laid off first. I don't even know what this individual does. He's a County Executive assistant, but this is coming in after the fact. The deed is done. You already hired him. And now you're telling us that, "oh, guess what? We didn't need your approval in the first place. We just need to submit a bill." So there is a clear distinction here.

CHAIRMAN CALARCO:

Legislator Lindsay.

P.O. LINDSAY:

Yeah, the only thing that I want to say is that in my years here, I recall a couple of resolutions having to do with this subject. I never remember us denying this ability for the Executive branch to hire somebody temporarily until they can get their residency straightened out. And I'd hate to see us go down that path now.

CHAIRMAN CALARCO:

Legislator Horsley.

D.P.O. HORSLEY:

Yeah, I just wanted to -- in fact, my recollection is that I think we've done that with employees of the Legislature within the last couple of years. I can think of two that come to mind, I would say, within the last two years, that we did that same courtesy.

The other issue I wanted just to quickly ask Tom is -- I can tell you which ones. I can give it to you, if you want.

CHAIRMAN CALARCO:

No.

D.P.O. HORSLEY:

Is he -- this gentleman, is he going to be moving into the County? I know he's from -- originally from Suffolk, but I wanted to see -- is he going to move into -- I think I know the answer but I want you to attest to it on the record.

MR. VAUGHN:

Thank you very much for the question, Legislator Horsley. This resolution provides Mr. Ruggeri a year to decide. So hopefully he decides that the siren call of Brooklyn is not strong enough to prevent him from coming home to Suffolk County. And this bill will give him a year to do that. Now, what I would just point out is that, you know, I would hope that Tim would find Suffolk County such a friendly welcoming place that he comes back. That would be fantastic.

D.P.O. HORSLEY:

Okay. So that is his choice. But my understanding is he is moving back because that's --

MR. VAUGHN:

I have never asked Mr. -- sir, I've never asked Mr. Ruggeri that question. The reason that I didn't was because the Civil Service bill simply said that he had a year to decide. And, quite frankly, I didn't think that was my -- that was my business. If he doesn't move back in within a year, then he's got a problem. Then we've got a serious issue that we need to discuss.

The other thing that I would point out, and I appreciate the comments from the Presiding Officer, but we went back and we did look at this. And I understand Legislator Browning's point that she didn't support Legislator Barraga's aide, but that bill went through 17-0. There was no vote to say -- and we did it by CN and there was no discussion. And I think it goes back to a critical point that Legislator Losquadro once made when he was a member of this body, which was that he felt -- and I'm just going to read for a moment his exact quote was that "we have a procedure in place. And as independent elected officials, we have the right to make our own staffing decisions." Now -- we agree with that wholeheartedly. Mr. Ruggeri is the person that Mr. Bellone wants on his staff. We want to bring him in. We want your support on this bill.

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The other thing that I would add is that we have done -- we've looked further than just residency. We also looked at the place in the administrative code where we waive nepotism. We have waived nepotism in the last ten years 20 times. And not at one point in time did one of those bills even get a "no" vote; not even in Committee. They are never discussed; they're never addressed. And you know why? Because it goes to the point that people should be able to hire the individuals that they want to do the job that they feel that they can do. We've supported those. We will continue to support those. We ask for your support on this.

CHAIRMAN CALARCO:

Legislator Cilmi.

LEG. CILMI:

Yes, thanks. I think it's unfortunate that we're in this -- that we're in this position. And I've asked Counsel to work with me to draft a bill to clarify the Charter with respect to this particular portion. But I'm going to support this bill. This fellow's been working for the County. And I certainly hope -- I certainly hope that all of those Legislators who have folks working out of the County in their offices do their best to find somebody who is -- who is acceptable within Suffolk County. In light of what Legislator Browning just reminded us of, I certainly hope that the Administration considered, at least, the folks who were laid off from this County at the beginning of or throughout last year. Given the fact that this fellow's been working for the County already, it's certainly not his fault that we're in this position.

So, I'll support the resolution. But I look forward to changing the law so that in the future we don't hire people without first having the waivers that are required.

CHAIRMAN CALARCO:

Okay. Legislator Spencer.

LEG. SPENCER:

It's interesting. I support this bill. And I agree with Kate. And I disagree with you, but I supported it on another reason. And the reason I disagree with you, and I think that as we get to the general session, I feel that we have a right to hire, again, whoever is the best person for the job, I understand that. But when we're dealing in these difficult economic times and we're dealing with layoffs and we are representative of Suffolk County, then, I think that we should try as much as possible where we can fill those jobs. I think it's really more of a -- whether or not it's an obligation or a perception.

But here's why I support your comment. And I agree, Mr. Ruggeri, I feel that if my family was here, at some point my children may go off to school, may work in the City, may do different things and may come back to Suffolk County or be employed. And I think this is a person, even though he's residing in Brooklyn, was originally a Suffolk County resident. So I don't -- so I support it from the standpoint that for whatever personal reasons or family reasons that we may go to different places, that I always feel that Suffolk County is my home. And I hope that if I had an opportunity to come back here and work if I were displaced for whatever reason, that I would be given that consideration.

So I agree with Kate that we have enough qualified people here. But I consider Mr. Ruggeri a Suffolk County resident. So I support you for that reason.

MR. VAUGHN:

Thank you very much.

CHAIRMAN CALARCO:

Legislator Montano.

LEG. MONTANO:

Yes. Tom, I want to just respond to your comments. And you're correct. We generally -- and I have never voted against an appointment for a colleague who wanted someone on staff that -- I did it myself. I've never opposed any resolution with respect to nepotism, because it's really to inform the public; nothing to do would us. I don't want to tell -- I don't want you telling me who I can employ. I don't want to tell you who you should employ. But, you know, with respect -- we're not dopes either. I mean, you know, I read in Newsday, if this is the same individual who worked for the County Executive when he was Supervisor, the County Executive came here, the new -- for whatever reason Mr. Ruggeri -- who I don't know, by the way. If I bumped into him right now, I wouldn't know him from Adam. Why he went to Brooklyn, I don't know what happened there. I don't know. And, you know, obviously this is someone that the County Executive for whatever reason decided to bring back. And I don't have a problem with that. And I'm going to support this resolution.

However, what I don't like, and I think you know that when I don't like something I'm consistent in my dislike of something, I don't like playing fast and loose with the rules. This could have been -- you know, when I did my -- you know, unless I'm wrong, we can check the record, and if I'm wrong, I will sincerely apologize. What my understanding has always been that you get the approval first and then the person gets paid. I'm not aware of the new interpretation. And this is not like, *well, somebody made an error and put someone on board*. This was a conscious decision to put the person on board and then go to the Legislature and -- you know, we're hard pressed. And, like I said, I'm going to give you the vote. But I don't like this, you know, one day there's one rule and the next -- you know, the next day there's another rule. I mean, these things could have been looked at, could have been discussed. And, you know, look, you bring in -- with all due respect you bring in enough C of Ns. If it was an issue, you could have brought this one on a C of N also.

I'm not going to deny you, you know, because I don't know what this person is doing. But Kate is right. We just laid off 300 people and we're bringing someone back in. I was under the impression we're in a hiring freeze. But I'm not going to get into all that. You got the vote, but I don't like the way it's presented. And, you know, if anything, you know I'm consistent in my statements on these issues. And to me it is about process.

So with that, you know, I just wanted to respond to it. You're right, I have never voted against any of these and I'm not going to vote against this one.

CHAIRMAN CALARCO:

Legislator Browning.

LEG. BROWNING:

Again, I will not vote on this one because, you know, I know that we had in the last Administration there was always the comments and complaints about the number of PR people that he had. And, again, when we talk about budget issues, where is the money coming from to pay the individual? And I know that there was a lot of positions cut and a lot of new positions that have been created, and how many PR people does he really need? And so for that, I think, what he's got is sufficient. And we can't just keep hiring people because of who they are.

LEG. CILMI:

Just really quickly, to Budget Review, this is a budgeted position obviously. Otherwise, there would be an accompanying budget resolution; correct?

MR. PERNICE:

Yeah, it's anticipated that the salary will come from the budget last -- he was actually on the payroll at the end of last year so it should have been, you know, budgeted for 2013.

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LEG. CILMI:

This individual was on the payroll in 2012?

MR. PERNICE:

The very end of it.

LEG. CILMI:

Really.

MR. PERNICE:

December.

LEG. CILMI:

Okay. Having heard Counsel read the way the Charter reads, it sounds -- and I'm not an attorney, but it sounds to me like there is some room there, which we'll clean up. But it's unfortunate that it's taken this long to come to us for this. Really; it really is.

CHAIRMAN CALARCO:

Okay. I think that's all the comments. I would suggest that Mr. Ruggeri look for a place in Suffolk County. There's a great community in Patchogue with a beautiful downtown, if that's what he's looking for. We have affordable housing in Patchogue, too. So, might be something he might want to look at doing.

First we have a motion and a second. All those in favor? Opposed? Abstentions? **IR 1046 is approved with one abstention. (VOTE: 5-0-1-1. PO LINDSAY INCLUDED IN VOTE. LEG. BROWNING ABSTAINED. LEG. KENNEDY NOT PRESENT)**

Seeing no other business on the agenda, I will make a motion to adjourn.

**THE MEETING CONCLUDED AT 1:50 PM
{ } DENOTES SPELLED PHONETICALLY**