

11/21/13 Gov Ops Committee

**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 21, 2013.

MEMBERS PRESENT:

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

ALSO IN ATTENDANCE:

Presiding Officer Wayne R. Horsley, 14th Legislative District
George M. Nolan, Counsel to the Legislature
Sarah Simpson, Assistant Counsel to the Legislature
Renee Ortiz, Chief Deputy Clerk of the Legislature
Robert Lipp, Acting Director/Budget Review Office
Benny Pernice, Budget Review Office
Tom Vaughn, County Executive Assistant III
Dennis Cohen, Deputy County Executive
Marie Berkoski, Aide to County Executive
Paul Perillie, Aide to Leg. Gregory
Lora Gellerstein, Aide to Leg. Spencer
Amy Keyes, Aide to Leg. Calarco
Bob Martinez, Aide to Leg. Montano
Ali Nazir, Aide to Leg. Kennedy
Michael Pitcher, Aide to Presiding Officer
Arthur Sanchez, DSPBA
And all other interested parties

MINUTES TAKEN BY:

Diana Flesher, Court Stenographer

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THE MEETING WAS CALLED TO ORDER AT 12:34 PM

CHAIRMAN CALARCO:

Could we have all Legislators to the horseshoe for the Government Operations Committee?

Okay, we're going to get started with the Government Operations, Personnel, Housing and Consumer Protection Committee. Good afternoon everyone. Thank you for being here. If we could rise for the Pledge of Allegiance led by Legislator Browning.

SALUTATION

Thank you.

Okay. We're going to get started. I do not have any cards for the Public Portion. Is there anybody in the audience who would like to address the Committee this afternoon? Seeing none, we're going to move on. I do not have any correspondence or presentations for this afternoon so we'll get right into the agenda.

TABLED RESOLUTIONS

We'll start with Table Resolutions. **IR 1910, Adopting Local Law No. -2013, A Local Law authorizing an exemption in County's Backflow Testing Law. (Schneiderman)** Okay.

LEG. BROWNING:

Motion to table.

CHAIRMAN CALARCO:

I have motion to table by Legislator Browning. I'll second the motion to table.

LEG. CILMI:

On the motion.

CHAIRMAN CALARCO:

On the motion, Legislator Cilmi.

LEG. CILMI:

I'm not sure why the -- why the tabling motion. I think it's -- you know, we create these laws and then we go and we exempt this person and exempt this person and exempt this person but -- which doesn't make too much sense to me ever. But this is a case -- a situation where this agency is responsible, apparently, from what we're told anyway, for approving the certifications of backflow testers, to have the folks who are doing those certifications not able to test backflow devices themselves to me doesn't make too much sense. I don't know -- unless I'm -- there's something I'm missing here, which there may be.

CHAIRMAN CALARCO:

Legislator Browning, you want me to answer that?

LEG. BROWNING:

Sure.

CHAIRMAN CALARCO:

I guess -- no, go ahead. Please feel free.

LEG. BROWNING:

No, I -- I don't think it's -- I think it's also the people they train who are not -- there's nobody here

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from --

LEG. CILMI:

Maybe Counsel could -- because the testimony that we heard from the fellow who came to our Committee at our last meeting as well as to the General Meeting last, basically said that he would be -- you know, his agency is directly and exclusively, I guess, impacted by this. George, do you have a --

MR. NOLAN:

It's very short so I'll just read it. It says that people who serve as cross connection control program instructors for the State of New York, Department of Health, may test the backflow devices at the request of any person licensed as a Master Plumber without having to establish an employer/employee relationship with that plumber. So, yeah, that -- it exempts the instructors.

LEG. CILMI:

And even at that, it's at the request of a licensed plumber.

MR. NOLAN:

Yes.

LEG. CILMI:

So you have -- you have the folks who are -- who are -- you know, if I wanted to be a backflow inspector, a backflow device inspector, I would have to go and get certified by New York State through this agency. And that would be the only way that I could be a certified backflow device inspector. In addition, of course, based on our local law, I would have to be affiliated with a local plumber. But the individuals who are actually doing the certifications -- it's like saying if we had a -- if we had a -- if somebody in our Consumer Affairs Department who was -- who was certifying electricians, for example, wasn't allowed to perform electrical work in Suffolk County, that doesn't make too much sense.

LEG. SPENCER:

I actually agree with Tom on this. You know, I was talking about -- and again I always use medical analogies because that's what I know; like when I was in medical school, the person that taught me anatomy was a professor. He wasn't a physician. And, you know, they were authorized to be able to, you know, to work with people -- we're talking about the accrediting agency that does the -- the authorizing and does the training.

LEG. CILMI:

Right.

LEG. SPENCER:

And I have to agree with you, Tom, you know, that -- you know, and maybe we can get some more feedback before the vote on Tuesday, but I'm kind of the mind to approve or at least discharge this.

LEG. BROWNING:

I'll withdraw my motion to table because I'm thinking that maybe I'm thinking there's more to it than what there is. So it's basically just the trainer, the person who gives the instruction who is state licensed is not exempt -- he's not allowed to do it, but the people that he trained -- he trains may not -- may not be plumbers.

LEG. CILMI:

And they wouldn't -- the people that he trains would still be prohibited from testing backflow devices unless they are certified, first of all; and second of all -- which is a state certification issued through this agency. And second of all, unless they're associated with a Master Plumber because of our local law.

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LEG. BROWNING:

I'm wondering why they even train anywhere since those people -- we can't do it anyway, but that's whole other story. Okay.

CHAIRMAN CALARCO:

I think the master plumbers still need to have a certificate.

P.O. HORSLEY:

Yes.

LEG. BROWNING:

Okay. Well, I'll withdraw my table.

CHAIRMAN CALARCO:

Okay, tabling motion's been withdrawn. Do we have any other motions?

P.O. HORSLEY:

Robert, just quickly.

CHAIRMAN CALARCO:

Legislator Horsley.

P.O. HORSLEY:

So what you're saying is that the -- those -- and I understand there's only three of them from what the gentleman said, Mr. Medina, I believe his name was, the other day, said that there's only three of them. And even if he -- because he does not have a plumber's license, he would have to work under somebody else to be working with the backflow preventers. So he'd still have to work for a plumber under our laws.

LEG. BROWNING:

I guess.

P.O. HORSLEY:

Is that correct? No, even with the amendment --

CHAIRMAN CALARCO:

No. No. I think what the amendment accomplishes is is currently under the law that was passed, I want to say about two or three years ago, probably three, it was before I was actually on the Legislature, the -- any person who performs a backflow test must do so under an employee/employer relationship with a Master Licensed Plumber.

P.O. HORSLEY:

And this eliminates --

CHAIRMAN CALARCO:

This eliminates the requirement for the employee/employer relationship to exist. So that individual who does certification and teaches people how to do the backflow test could have their own business, so to speak, and do testing. But the only way they can do it is when a Master Plumber actually makes the referral, I guess, to the company to do it? Is that accurate, Counsel?

MR. NOLAN:

You're talking about if this law is passed? If this law is passed, he can do it at the request of a -- at the request of a plumber that's licensed in the State of New York.

CHAIRMAN CALARCO:

So does that mean like a plumber -- say I have a facility, I need to have something tested -- the

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device tested. I call my plumber. The plumber says: "You know what, I'm really bogged down but here's the number of a guy that could come and do it for you." And does that work? Or does the plumber actually have to call him to do the work?

MR. NOLAN:

It says at the request of any person licensed as a Master Plumber. So the Master Plumber would have to request that this guy come in and do the testing.

LEG. CILMI:

Mr. Chairman, if I may? Here's another sort of nuance that we might want to explore. And I guess -- I would make a motion to discharge without recommendation so that we can sort of at least get this out onto the floor and have some additional time to look at it prior to our meeting. But in the -- in the -- somewhere in the bill it says this would exempt persons who serve as cross connection control program instructors for the New York State Department of Health.

So the question that arises, then, is how does one get to be an instructor in the cross connection control program for the State? Because, let's say, for example that -- and I can't imagine this to be -- this could be the case, but I'm not -- you know, I'm not a plumber. I know nothing about plumbing. But let's that I, for example, could get -- could be employed by New York State as a -- as an instructor in this cross control program. Let's say somebody knows something about plumbing but they're not a licensed plumber and they could be employed by New York State as an instructor in this cross control program. Then theoretically they would be allowed -- if this law passes, they would be allowed at the request of a plumber, a licensed plumber, to test backflow devices. So we're not talking about -- I'm sure we're not talking about a huge universe of people who have the authority to do, you know, who are employed in this capacity. What's that?

P.O. HORSLEY:

I'm sorry. May I through the Chair, I think what this does then, is -- this is your bill -- is that he will not have to get -- if he was a licensed, then, instructor, he would not have to go get the -- he would not be on by the request of the plumber. He could go out and do it on his own without the plumber --

LEG. CILMI:

No.

CHAIRMAN CALARCO:

No, no. The plumber -- plumber -- the licensed plumber still needs to make the request.

P.O. HORSLEY:

The licensed plumber still needs to -- is that what you said, George?

MR. NOLAN:

Yes.

P.O. HORSLEY:

I take it back.

LEG. CILMI:

Legislator Horsley, here are the -- first of all, it's not my bill. It's Legislator Schneiderman's bill.

P.O. HORSLEY:

Sorry.

LEG. CILMI:

But -- it's interesting because the original bill that we passed creates the requirement that the backflow device inspector is affiliated with a Master Plumber.

P.O. HORSLEY:

Right.

LEG. CILMI:

This would allow for New York State cross connection control program instructors to inspect backflow devices at the request of a licensed plumber. It's an interesting difference. I'm not sure that there -- you know, I'm not sure that there is any difference in the law.

CHAIRMAN CALARCO:

I think the difference is currently you have to -- the employee/employer relationship must exist. So that person going out and doing a backflow test -- quite honestly anybody -- I don't know day one about plumbing, but I could go out and do plumbing work under -- if I was employed by a Master Plumber. I could go out and I'm going to be his apprentice, whatever, and, you know, do whatever work he's asking me to do including backflow testing; as long as that Master Plumber, I'm working under his license.

And so the current law's basically saying anybody who's going to do backflow testing must do so under that person's license as a Master Plumber. And, then, of course, the State requires them to have this additional certificate that we're talking these trainers about.

LEG. CILMI:

Right.

CHAIRMAN CALARCO:

What this law is going to say is that that relationship no longer needs to exist. So I could have --

LEG. CILMI:

For instructors specifically.

CHAIRMAN CALARCO:

Specifically. So if I'm an instructor, I could have my own backflow testing business. And then I could establish a relationship, but not an employer/employee relationship with any number of plumbers who say -- and I can say to them, "you know what? I know that you're busy. If you get bogged down, give me a call. I'll come out and do the testing for you." I don't -- but the plumber doesn't have to collect the money. The plumber doesn't have to pay me. I'm doing it all through my own business. I could collect payment directly from the individual that needs to have their backflow tested. And I don't need to have that employee/employer relationship with the plumber in order to do the work if I'm an instructor under this law. Is that accurate, George?

MR. NOLAN:

Yes.

LEG. CILMI:

Well, I don't disagree.

CHAIRMAN CALARCO:

I don't need to have that employee/employer relationship.

LEG. CILMI:

Yeah. And I'm not sure -- but I'm not sure under the current law that we're relying on an employer/employee relationship to do the -- to do -- to give authorization, are we? Because initially we were just saying affiliated with.

MR. NOLAN:

I think the way it's being enforced by labor and licensing in Consumer Affairs is they have to have to an employer/employee relationship.

LEG. CILMI:

That's the way it's being enforced; that's your understanding at least.

MR. NOLAN:

That's my understanding, yes.

LEG. CILMI:

Do we have -- we don't have anybody from --

MR. NOLAN:

The language does say employed. So that's the way they're enforcing it.

LEG. SPENCER:

I would like to second the discharge motion made by Legislator Cilmi.

LEG. CILMI:

Let's get it onto the floor and we can -- and we can -- we can all find more -- we can all kind of look into this a little further and give everybody an opportunity to vote at our next meeting.

CHAIRMAN CALARCO:

Do I have a motion? And it's a motion to discharge. I have a motion and a second. Okay. I have no other motions. And if the conversations done, all those in favor? Opposed? Abstentions? I abstain. **IR 1910 is discharged. (VOTE: 5-0-1-0)**

INTRODUCTORY RESOLUTIONS

Moving onto Introductory Resolutions, **IR 2034, Approving the appointment of a relative of a County Legislator to a position in the Suffolk County Department of Labor, Licensing and Consumer Affairs. (Presiding Officer on behalf of the County Executive)** I'll make a motion to approve.

LEG. BROWNING:

Second.

CHAIRMAN CALARCO:

Second by Legislator Kennedy. All those in favor? Opposed? Abstentions? **IR 2034 is approved. (VOTE: 6-0-0-0)**

IR 2035, to approve the least of two (2) new fifteen (15) passenger vans --

P.O. HORSLEY:

Rob, just excuse me one second. Madam Clerk, just make sure that I'm on the record that I am recusing on that.

CHAIRMAN CALARCO:

Yeah, please, please leave the Presiding Officer off that vote.

MS. ORTIZ:

I didn't have you included on the votes.

P.O. HORSLEY:

I didn't thing -- well, I could have if I was -- yeah, I just wanted to make sure. Okay. Okay, we have that cleared up. As PO, he can -- his vote counts if he so chooses.

IR 2035, To approve the lease of two (2) new fifteen (15) passenger vans in the Suffolk County Department of Labor, Licensing and Consumer Affairs. (Presiding Officer on behalf

of the County Executive) I'll make a motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. All those in favor? Opposed? Abstentions? **IR 2035 is approved. (VOTE: 6-0-0-0)**

IR 2036, to approve the purchase of a vehicle currently leased by the Suffolk County Department of Labor, Licensing and Consumer Affairs. (Presiding Officer on behalf of the County Executive). I'll make a motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. All those in favor? Opposed? Abstentions? **IR 2036 is approved. (VOTE: 6-0-0-0)**

IR 2037, amending the Temporary Classification and Salary Plan to add the Emergency Complaint Operator and Emergency Complaint Operator (Spanish Speaking) Titles. (Presiding Officer on behalf of the County Executive) I will make a motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. If someone from the Administration could just come forward and please explain to us to what we're doing here.

MR. VAUGHN:

Good afternoon, Mr. Chairman. As the Legislature remembers earlier this year, we passed a -- what I believe was a local law to establish an {ECAT} team to help with potential overflow during high call volume times over in the 911 operation center. In order to establish that team, we needed to establish these part-time titles.

LEG. KENNEDY:

Part-time title?

MR. VAUGHN:

Yes, sir, part-time title..

CHAIRMAN CALARCO:

Go ahead, Legislator Kennedy.

LEG. KENNEDY:

Okay, so through to Counsel, then, we already have the title in the salary and classification code. As a matter of fact, a lot of the conversation we've had has been about the number of vacancies or new ECOs --

MR. VAUGHN:

Absolutely.

LEG. KENNEDY:

And they have been a title that we've utilized --

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MR. VAUGHN:

Right.

LEG. KENNEDY:

-- in the salary and classification code for 30-plus years.

MR. VAUGHN:

Hence why we are establishing a part-time version. That is what this legislation does. We have this --

LEG. KENNEDY:

Part-time meaning a limitation up to how many hours?

MR. VAUGHN:

Legislator, I'm sorry, I don't know the definition of part-time.

LEG. KENNEDY:

Part-time is made up of a variety of different things. Typically for municipal employment, part-time is less than 20 hours; actually usually less than 17 hours so that there are no benefits that --

MR. VAUGHN:

Right.

LEG. KENNEDY:

-- wind up being generated by IRS regulations.

MR. VAUGHN:

Right. So your question to me was how many hours that is. And while I understand the part that you just explained, I don't know the limitation on the hours. But I will just cite that resolution 651 of 2013 directed the County Police Department to create the Emergency Call Action Center to be staffed by temporary and/or part-time workers. We can't hire part-time people if we don't have the title for them. This would create that emergency title. We have -- we have ECOs. Those are full-time titles. We wanted -- we needed to create this title to be in compliance with resolution 651.

LEG. KENNEDY:

What is -- through the Chair to BRO, I would assume -- I've not seen the fiscal impact. There's no fiscal impact with the creating of the position, is there? Did you do any compare and contrast, Benny, between overtime and use of part-timers?

MR. PERNICE:

Just to clarify, the reason why this is funny is because yes, it is a title and a salary classification plan, but there's a separate salary and classification plan for temporary employees. So the amount of time -- so you can have part-time permanent employees, which is part of the regular salary and classification plan. You can have part-time temporary employees, which is a separate salary and classification plan. We just recently did this with the labor technician position, where we had to amend in the salary and classification plan because it's a different rate than if you're a County -- a permanent County employee. So that's why the resolution is before you.

LEG. KENNEDY:

Our temps out in the Clerk's Office used to have a two-week break. We could only work them 17 hours. And they had to go off payroll for a two-week block, but they were just straight wage.

MR. PERNICE:

U-huh.

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LEG. KENNEDY:

Is that what the intention here is?

MR. PERNICE:

I don't know what time -- how they're going to be employed.

LEG. KENNEDY:

Okay. Tom, is that the intention here, that by creating this, you're creating an individual what will be just straight wage? No OT, no benefits; it's no anything?

MR. VAUGHN:

No, Legislator -- well, no benefits, correct. But there are actually four -- four rates of pay. So there's a training rate of pay of \$12.50. There is a day rate of pay for \$15.79. There's a rotating rate of pay for \$16.74 and a night rate of pay of \$17.36. And these were derived by working with the Police Department.

LEG. KENNEDY:

Have you had any conversation with AME on this? Is there any -- did they weigh in at all? Okay, you know what? That's fine. I thank you, Mr. Chair. I think I know a little bit better about what the intention is here. Okay.

CHAIRMAN CALARCO:

Fantastic. Thank you.

LEG. KENNEDY:

Thank you.

CHAIRMAN CALARCO:

Okay. Any other questions on the matter? I do have a motion and a second. All those in favor? Opposed? Abstentions? **IR 2037 is approved.**

LEG. KENNEDY:

Opposed. (VOTE: 5-1-0-0)

CHAIRMAN CALARCO:

IR 2038, Authorizing the County Executive to execute an Agreement with the Suffolk County Police Benevolent Association, Inc., Parks Police Unit covering terms and conditions of employment for the period October 30, 2013 through December 31, 2018. (Presiding Officer on behalf of the County Executive) I will make a motion to approve.

LEG. BROWNING:

I'll second.

CHAIRMAN CALARCO:

Second by Legislator Browning. Mr. Vaughn, if you can please provide the most concise explanation of this as possible, we would appreciate it.

LEG. BROWNING:

Rob, real quick. I mean I'd like to know who -- who was involved in the negotiations with this? And do we have somebody from Labor Relations? No offense, Mr. Vaughn. But were you involved in the negotiations on this issue?

CHAIRMAN CALARCO:

It appears Tom is our only option right now but --

LEG. BROWNING:

You know, we used to have -- Labor Relations would come to our Gov Ops Committee meetings all

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the time. And, you know, it's not fair to throw Tom out there all the time because you're not always involved in everything that's going on.

CHAIRMAN CALARCO:

Okay.

LEG. BROWNING:

But I am making a request that we should have a representative from Labor Relations at this Committee meeting.

CHAIRMAN CALARCO:

Okay. I could appreciate that. Mr. Vaughn, who did negotiate this?

MR. VAUGHN:

Chief Deputy County Executive Dennis Cohen negotiated this with PBA.

CHAIRMAN CALARCO:

Okay. Can you give us a summary of what we're doing here?

MR. VAUGHN:

The summary is that this -- that there was a grievance filed. And this is to settle that grievance.

CHAIRMAN CALARCO:

Can you give us a little more in depth summary?

MR. VAUGHN:

I'm sorry, you asked for a brief one.

CHAIRMAN CALARCO:

I asked for a concise one.

MR. VAUGHN:

We had -- there was a dispute between the County and the Parks Police as to the exact nature of a benefit as it pertains to Workmen's Comp. That was the genesis of the dispute between the two organizations. The Parks Police changed over, as you know, earlier in the year from being part of the Sheriff's Bargaining Unit to becoming part of the PBA. This actually moves them into the PBA's Benefit Fund. And we believe that the cost is going to change to the County of \$17,000.

CHAIRMAN CALARCO:

Okay. I had a conversation earlier with Noel DeGerolamo, President of the PBA. And he gave us some explanation -- or maybe Mr. Lipp could give us a little bit of --- more.

MR. LIPP:

Sure. I was in that conversation, too. And the way it was described to me and with yourself, but the way I took it from Noel was that the arbitrator was sort of silent on the Benefit Fund. And they felt that it was assumed that they were already in the PBA Benefit Fund. And there was statements made that they were going to sue if they didn't receive this benefit. So to avoid the lawsuit, they decided to do this agreement. That's the way it was described to me. And the 17,000 and change that Mr. Vaughn is speaking to is the first year impact. The first year impact. If you look over the length of the agreement, which is 2014, the first year being 17,800 and change through 2018, the full agreement, it would come to approximately 111,000. So they needed to -- in order to do this properly, since there was a cost involved, they needed to bring this resolution forward.

CHAIRMAN CALARCO:

If you could, Mr. Lipp, I think that part of what is important for us to understand here is what were the alternatives here, you know, should the County not have decided to do this agreement.

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MR. LIPP:

The only -- the understanding that I received, the only alternative I got was that it would avoid the lawsuit.

CHAIRMAN CALARCO:

Well, I guess everybody's still a little confused. Mr. Vaughn, sometimes it is helpful to have Labor Relations and the people who negotiate the contract here. My understanding from the conversation that we had was that the Park Police Unit had been given an award from an arbitrator. And there were questions regarding the accumulation of time, specifically vacation time, sick time, night differential, those type of payments for that individual when they were out on Disability. And in order to avoid the litigation and the potential of that cost to the County should the litigation go in favor of the bargaining unit, we reached this agreement that was going to allow the Park Police Unit to transfer over into the PBA's Benefit Fund at an initial cost of the 17,000 and change or 18,000 or so to the County.

And what we are avoiding is the potential not only of losing the litigation and the cost of litigation, but should the unit win the litigation and should an employee be injured on the job, the cost of all that pay-out for the time and the various time accruals that that individual would make if they remained under the way the agreement -- the way the arbitrator has found the deal. Does that sound about accurate according to what we heard? Of course, it'd help if Administration had somebody --

MR. LIPP:

Yeah, I apologize. I didn't quite get it that way. I thought that the litigation would relate to not being able to get the Benefit Fund (inaudible) --

CHAIRMAN CALARCO:

Perhaps I should ask George. George, you were in on that conversation. What was your understanding of the conversation?

MR. NOLAN:

Well -- and I think this may be reflected in the agreement. There was an element of the arbitration award that the County disagreed with and believed was a mistake. And they intended to challenge that arbitration -- that element of the arbitration award that, I believe, has some type of cost impact to the County; a negative cost impact. In lieu of that, they reached this agreement with the PBA. So that element of the arbitration award is struck. And, I guess, in return or as part of that, the Park Police go into the PBA Benefit Fund. And the annual cost is \$18,000.

What the savings are to the County from doing this, you know, I don't think it's been quantified but I guess there must be some on the other end.

CHAIRMAN CALARCO:

I think the issue, it's not very quantifiable. It's a -- we can take the chance. And if we lose the litigation, and if an employee does get hurt, there's a lot of -- there's pay-out that we'd have to make that otherwise we would not under this agreement. Any questions? Legislator Montano.

LEG. MONTANO:

As I listen to this, what is the exposure if -- you're saying the cost factor, Robert, is 18,000 per year. Is that what you said?

MR. LIPP:

Well, it goes up incrementally based upon what the PBA benefits are. And there's an assumption that there will be no increase in AME Benefit Funds. And the first year is almost 18,000 though based upon our estimate. And then it's over the one, two, three, four -- five years of the agreement, it would total almost 111,000.

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LEG. MONTANO:

And what is the County's exposure assuming this went to litigation? Is there any exposure if they went to litigation and lost?

MR. LIPP:

That I wouldn't know.

LEG. MONTANO:

Well, who would? Counsel, do you know?

MR. NOLAN:

I don't know what the exposure is.

CHAIRMAN CALARCO:

I think the issue, Legislator Montano, is there's no way of quantifying that very easily. Because the exposure is the amount of time somebody could potentially accumulate and the County would have to pay out on should somebody get injured on the job. I guess the example I can give you of one that I know of, and it's a case that I happen to be aware of just because it happened, I think, that somebody was a constituent in the district that I represent before I was representing it, but there was a Park Police Officer who had been in an incident. He was severely injured while on the job. And had that individual been awarded the terms of the current arbitration award, that individual would have accumulated basically about a year's worth of sick time, vacation time, other accruals that he would have been eligible for under the terms of the contract, that the County would then have had to pay out once he left employment.

LEG. MONTANO:

Right. The only thing I would just comment on is that I would agree with what you said earlier, is just you're asking for a vote on something that no one can really explain. And someone from -- with knowledge ought to be able to -- be able to articulate what the actual issue is is just my point.

CHAIRMAN CALARCO:

Well, perhaps what we can do is we'll pass this over for a moment. Mr. Vaughn, if you could try to go get somebody on the phone, run across the street, who could give us a little better explanation of what --

MR. VAUGHN:

Legislator Calarco, I'm very sorry. And actually I was trying to single for your attention. The person who would be able to provide any additional information on this is Dennis Cohen who's currently in an EMHP meeting today which is why he is not here.

CHAIRMAN CALARCO:

So is the union President. So maybe we can go call them both and ask them to step out of their meeting for 15 minutes to come see us. Does that work? I think there's a desire to try to move this before the end of the year. But let's -- we'll skip over it. We have a couple more items on the agenda. If you could please do that for me, Mr. Vaughn.

LEG. BROWNING:

If I can make a recommendation that we just go ahead and discharge without recommendation and let them come on Tuesday?

CHAIRMAN CALARCO:

Okay, I'd be okay with that. I withdraw my motion. You're making a motion to discharge without recommendation, Legislator Browning?

LEG. BROWNING:

I will, but I mean, again, if we had our rep -- because I know Dennis Cohen is, he's the County

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Attorney -- he is an attorney and Deputy to the County Executive, but where is our Labor Relations person? Is she never involved in any of these negotiations?

MR. VAUGHN:

I can't speak to whether or not the Labor Relations person's involved in the labor negotiations. I know that I am certainly not involved in the labor negotiations so I'm not at the labor negotiations to state who was there. But I do know that Mr. Cohen does handle a large part of the negotiations and the contact between the County Executive and the unions.

CHAIRMAN CALARCO:

Okay.

LEG. BROWNING:

Right.

CHAIRMAN CALARCO:

We're not going to get into -- (inaudible)

LEG. BROWNING:

Well, we won't go there, but I would expect that our Labor Relations person would be here and would have been involved. Right?

CHAIRMAN CALARCO:

We have a motion to discharge without recommendation by Legislator Browning; seconded by Legislator Spencer. I would appreciate it, Tom, that if somebody, whether it's Dennis Cohen or Miss McNamara, whoever it might be, be available at the meeting on Tuesday to answer questions because I think we're all kind of -- oop, here he comes. Mr. Cohen is here. We stalled just long enough.

LEG. SPENCER:

That was pretty amazing.

CHAIRMAN CALARCO:

I knew they couldn't be too far away. You're on the hot seat.

MR. COHEN:

Good afternoon.

CHAIRMAN CALARCO:

Tell us what you're asking us to do here.

MR. COHEN:

For the Park Police MOA basically it settles an issue we were having with respect to an interest arbitration. There was an award. The County made a motion to reopen the award because there was something in the award they we objected to. This settles that matter by placing the Park Police Officers into the PBA Benefit fund. I believe there's a yearly cost of about \$17,000. The impact, if we lost the interest arbitration issue could potentially be above that.

CHAIRMAN CALARCO:

Does anybody have any questions for Mr. Cohen? Or does that make it a little bit clearer? Legislator Spencer? No.

LEG. SPENCER:

No.

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CHAIRMAN CALARCO:

Anybody? Okay.

LEG. MONTANO:

I had asked a question about the County's exposure. Do you have any comments on -- you said it would be above the 17. Do you have any idea of what the exposure would be to the County?

MR. COHEN:

It's tough to calculate the -- the issue that we were challenging is for Park Police Officers who went out on Workers' Compensation, it would grant them accruals during the period of time that they were out. So it depends on, you know, how many officers were potentially out on Workers' Compensation. But, again, the potential would be a higher cost.

LEG. MONTANO:

When you say accruals, what are you referring to, if they're out on Workers' Compensation? Explain what you mean by that to me. I'm not sure I understand.

MR. COHEN:

Earning accruals, whether it be sick time, vacation time; accruals.

LEG. MONTANO:

So they would earn it while they're out on Worker's Compensation?

MR. COHEN:

That was the issue, yes.

LEG. MONTANO:

And under this agreement do they earn it or do they not earn it? I mean, what's the difference?

MR. COHEN:

Under this agreement what we've done is amended the interest arbitration to take away the accruals.

LEG. MONTANO:

Okay. So while they're out on Workers' Compensation, under this agreement they do not accrue time for sick leave and other benefits. And you're saying that prior to this agreement they would accrue those time -- those times?

MR. COHEN:

Not prior to the -- not prior to the agreement; not prior to the interest arbitration award. Unfortunately the interest arbitration award granted them certain things that they didn't already have.

LEG. MONTANO:

Oh, okay.

MR. COHEN:

We believe that was a mistake. It was not an issue that was supposed to be raised. So we were challenging it. I'm sure you know as an attorney it's very difficult to overturn an arbitrator's decision.

LEG. MONTANO:

Yeah, it's usually almost impossible sometimes.

MR. COHEN:

Right. Hence the settlement.

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LEG. MONTANO:

Okay. But the settlement, you say, is favorable because it does not allow the officers to accrue certain benefits while they're out on Workers' Compensation?

MR. COHEN:

Correct.

LEG. MONTANO:

Okay. I didn't know they could accrue while they were out --

MR. COHEN:

Well, again, I mean they didn't change anything. Unfortunately the interest arbitration would have changed it.

LEG. MONTANO:

Okay. Thanks.

CHAIRMAN CALARCO:

Legislator Kennedy.

LEG. KENNEDY:

Dennis, I'm trying to remember the particular chapter and maybe this is a question that actually goes not necessarily to this particular, you know, set of facts but our police officers when they're injured on the job, there's no such thing as Workers' Compensation. They go out on 203 or 207 medical leave. And it's designed specifically to protect our law enforcement officers who we know are in an occupation that may, in fact, cause or lead to injury.

So I'm a little confused when I heard you talking to me about Workers' Comp because that's not something that's even a matter that comes into discussion with a police officer. Are we talking about the fact we have like two different sets of folks that we're attempting to try to blend here?

MR. COHEN:

No, I mean, you're correct. I mean, actually I come from Workers' Compensation --

LEG. KENNEDY:

I know you do.

MR. COHEN:

It's a 207 (c) issue. It actually could be Workers' -- it's not automatically 207 (c) when a police officer or a park police officer is injured on the job, but you're correct. In most cases it's 207 (c). And regardless of under what provision they would fall, the interest arbitration award granted them certain benefits that they did not currently have under their prior collective bargaining agreement. It was something that we allege should not have been part of the award, but made its way into the award.

(LEGISLATOR MONTANO LEFT THE AUDITORIUM)

LEG. KENNEDY:

So in this you've got on both sides an agreement for the parties where there's relatively equal -- you're splitting the baby down the middle or whatever and both -- everybody's honky dory with it?

MR. COHEN:

Yes.

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LEG. KENNEDY:

Good. Thanks.

CHAIRMAN CALARCO:

Okay. Any other questions? We do have a motion and a second. Mr. Vaughn?

MR. VAUGHN:

I would just ask the Committee since the Chief Deputy came down here if we would please consider an approval motion rather than a discharge without recommendation.

CHAIRMAN CALARCO:

I'm okay with it, to make the motion to approve. Legislator Browning, it's your motion.

LEG. BROWNING:

Okay. I'll withdraw my discharge.

CHAIRMAN CALARCO:

Okay. Discharge is now withdrawn. Do I have a second for the approval? Seconded by Legislator Spencer. All those in favor? Opposed? Abstentions? **IR 2038 is approved. (VOTE: 5-0-0-1. LEG. MONTANO NOT PRESENT)**

Mr. Cohen, you might want to come on Tuesday still. I have a feeling there might still be questions. Or at least be listening in and be ready to come over when we might need you. Of course, we're in Riverhead. (Laughter).

IR 2059, Adopting a Salary Plan for employees excluded from the Bargaining Units. (Presiding Officer) I'll make a motion to approve.

LEG. SPENCER:

Second.

CHAIRMAN CALARCO:

Second by Legislator Spencer. I guess just to give us a quick clarification, is there somebody could tell us what we're doing here? Through Counsel.

MR. NOLAN:

This is -- every time the AME contract is finalized, we pass a resolution here to essentially extend the terms of that agreement to the people -- exempts, people who are not in the bargaining unit: District Attorney, Department of Law, Legislative Aides. So this basically tracks the AME agreement and apply it to the exempts.

CHAIRMAN CALARCO:

This is keeping all those people on par with AME.

MR. NOLAN:

Correct.

CHAIRMAN CALARCO:

Okay. Very good. Any questions? All those in -- oops, Legislator Spencer.

LEG. SPENCER:

Does this include all aspects of the agreement?

MR. NOLAN:

In terms of benefits -- and there are certain other elements that are discussed specifically in the resolution including the -- the lag payroll element is in here.

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LEG. SPENCER:

How about the no-layoffs?

MR. NOLAN:

Well, this we didn't -- we did not specifically extend a no-layoff provision to the exempts, no.

CHAIRMAN CALARCO:

I think unfortunately part of being an exempt means that your job is not protected by union.

LEG. SPENCER:

Yeah, I know.

CHAIRMAN CALARCO:

-- protections in the same fashion.

LEG. SPENCER:

I apologize. Is this -- the language of this resolution, how does it -- does it specifically exclude that or it only includes certain elements?

MR. NOLAN:

There's a -- at the end of the resolution there's a big catchall resolution that we always put in that talks about a lot -- a lot of the benefits, you know, in terms of leave, vacation, personal days, insurance. We specifically did put in resolve clauses about the lag payroll because that's an important issue. And it does state here that if the -- down the road the County Executive exercises his right to impose a lag payroll on the AME employees, then the same thing will happen with the exempt employees at that time. But I just don't want -- I don't think we could give a no-layoff provision for the exempts. I just don't think that's possible.

LEG. SPENCER:

I'm looking at the current resolution here. And I don't know if I have everything, I'm just looking at it in my binder, and it just seems a little vague in terms of, you know, I see some specifics but I guess my question is is that -- unless it is explicitly mentioned, then the assumption --

MR. NOLAN:

Well, this is really geared towards salary and benefits. That's what we are extending to the exempts. And, like I said, we can't give no-layoff protection to the exempt employees. Because by definition they're at, you know, they serve at the pleasure; many of them do.

CHAIRMAN CALARCO:

I guess I can answer some of that, too. Unfortunately for our exempt employees, they're not actually completely on par with everything AME employees have. The way they are paid out on their accruals was altered, I guess, probably five or six years ago where they are paid out on their sick time a quarter, you know, one day for every four days earned; whereas the current employees are paid out one to two. You know, there were certain things that were changed for the exempts many years ago that unfortunately was done because they are not covered by a bargaining unit.

LEG. SPENCER:

Through the chair. I appreciate that. And I read the resolution. I think the part that -- and that makes sense, you know, what you're saying by definition. But when you look at the Seventh Resolve where it says provisions of leave, vacation, sick, personal days, emergency, jury leave, holidays, holiday pay, compensation, benefit fund, life insurance, it lists a bunch of things. And then it says "and such other benefits". And so there's an area there that could be considered somewhat vague because it, you know, when you talk about "and such other benefits", there may be some interpretation. So I just wondered if the resolution in and of itself there could be an argument that could say otherwise; so I don't -- you know, I just want to make sure that we're voting on something that there's not -- that's not so vague that could lead to challenges.

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MR. NOLAN:

It's certainly not the intention to extend the no-layoff provision. Because of our unusual schedule, we could vote this out of Committee. We could add specific language making that clear, that the no-layoff provision has no application to the exempts; certainly that's something we could consider doing.

LEG. SPENCER:

Okay. If it's not necessary, then, I don't necessarily want to increase the bureaucracy but I just wanted to make sure that I knew what I was voting for and I'm all for giving the exempts as much protection as possible.

CHAIRMAN CALARCO:

Okay. Thank you very much, Legislator Spencer. Do we have any other comments, questions on the matter? Seeing none, we do have a motion and a second. All those in favor? Opposed? Abstentions? **IR 2059 is approved. (VOTE: 5-0-0-1. LEG. MONTANO NOT PRESENT)**

IR 2063, Adopting Local Law No. -2013 A Charter Law to expand Suffolk County Employment Residency Requirements. (Presiding Officer on behalf of the County Executive) This is a local law that needs to be tabled for a public hearing. I'll make the motion to table.

LEG. KENNEDY:

Second.

CHAIRMAN CALARCO:

Second by Legislator Kennedy.

LEG. CILMI:

On that motion real quick?

CHAIRMAN CALARCO:

Sure.

LEG. CILMI:

I'm just curious to know the -- this bill being in our Committee here, and there's another bill that deals with employment that's in a different Committee, I guess, that amends a law that we passed in 2011, I'm wondering why -- why there are two different committees? Is it 2061?

MR. NOLAN:

Because that is a -- because it is in our ethic statute, the amendment, all of those resolutions -- anything having to do with the ethics conflict of interest is Ways and Means, yeah.

LEG. CILMI:

Terrific. Thank you.

CHAIRMAN CALARCO:

Okay. We have a motion and a second. All those in favor? Opposed? Abstentions? **IR 2663 is tabled. (VOTE: 5-0-0-1. LEG. MONTANO NOT PRESENT)**

HOME RULE

Home Rule number nine, Requesting the State of New York to enact legislation authorizing the County of Suffolk to establish a County-wide Master Electrician Licensing Program (Senate Bill No. S.5132 and Assembly Bill No. A.7298). (Cilmi) Motion to table by Legislator Cilmi. I'll second the motion. All those in favor? Opposed? Abstentions? **Home Rule number nine is tabled. (VOTE: 6-0-0-0)**

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I have no other items on the agenda. Seeing no other issues, if all those would like -- anyone like to make a motion to adjourn? Legislator Spencer.

LEG. SPENCER:

Motion.

CHAIRMAN CALARCO:

We are adjourned.

**THE MEETING CONCLUDED AT 1:26 PM
{ } DENOTES SPELLED PHONETICALLY**