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 October 1, 2014.

MEMBERS PRESENT:
Leg. Robert Calarco, Chairman
Leg. William J. Lindsay, III, Vice Chair
Leg. Jay Schneiderman, Deputy Presiding Officer
Leg. Thomas Cilmi
Leg. Kara Hahn
Leg. Kevin J. McCaffrey

ALSO IN ATTENDANCE:
Leg. Kate Browning, 3rd Legislative District
George M. Nolan, Counsel to the Legislature
Sarah Simpson, Assistant Counsel to the Legislature
Lora Gellerstein, Chief Deputy Clerk of the Legislature
Jason Richberg, Aide to P.O. Gregory
Benny Pernice, Budget Review Office
Laura Halloran, Budget Review Office
Tom Vaughn, County Executive's Office
Phyllis Seidner, County Attorney's Office
Charles Gardiner
William Shilling, Aide to Leg. Calarco
Michael Pitcher, Aide to P.O. Gregory
Christina Delisi, Aide to D.P.O. Schneiderman
Sean Rogan, Aide to Leg. McCaffrey
Brian Sapp, Aide to Leg. Lindsay
Jill Rosen-Nikoloff, Director/Affordable Housing
Jennifer Appel, LI Housing Partnership
Peter Florey, D&F Development Group
Ralph Fasano, Concerned for Independent Housing
Donald Dailey, AME

MINUTES TAKEN BY:
Diana Flesher, Court Stenographer

THE MEETING WAS CALLED TO ORDER AT 10:05 AM

CHAIRPERSON CALARCO:
Good morning and welcome to the Government Operations, Personnel, Housing and Consumer Protection Committee. If you could please all rise for the Pledge of Allegiance led by Legislator McCaffrey.

SALUTATION

Okay, good morning everyone. Welcome to our Committee. We're going to get started. We have a number of cards here. Our first speaker is Jennifer Appel. Jennifer?

MS. APPEL:
Good morning. My name is Jennifer Appel. I'm General Counsel for the Long Island Housing Partnership located at 180 Oser Avenue, Hauppauge, New York. As many Legislators are familiar, Long Island Housing Partnership's goal is to provide affordable housing to those who wouldn't otherwise be able to get into the housing market as it currently stands.

We're before the Legislature today in support of the Highland Greens proposal, which is before you to authorize the planning process. This is a 117-unit limited equity co-op of affordable units in Huntington, New York. We are very involved in the development of this project. And we are going to be working closely with the developer, not only in the development stage of the project, but the Long Island Housing Partnership, as the not-for-profit, plans to stay in the deal permanently and manage the co-op once it is built.

For those who are unfamiliar with the limited-equity co-op, it basically provides the benefits of homeownership to people who are looking to get into the housing market while allowing maintenance -- monthly maintenance payments that are either equal to or lower to what they would pay for rent. So it provides people with the benefits of homeownership because they are building up equity in the units, but they do not have to get a mortgage and the monthly -- monthly mortgage payments under the proposal will be starting at anywhere from 1100 to 1300 to get into these units. We think it's a great model that could work on Long Island and we're here in support of it. Thank you.

CHAIRPERSON CALARCO:
Great. Thank you very much. Our next speaker is Peter Florey.

MR. FLOREY:
Good morning. I'm Peter Florey. I am a principal with the D&F Development Group. We are the co-developers of Highland Green LLC, which is also known as the Sanctuary on Ruland Road. Just wanted to, first of all, thank the Legislature and the County Executive for considering our project. We've applied for funding from the County. And we just wanted to thank you very much for your consideration.

I wanted to just give a quick history of what has transpired over the past 15 years with this project. As you may know, it's an 8.1 acre parcel on Ruland Road just east of Max's Road in Melville. And it has been -- it was bought initially by {Gabrielle Benjamin} back 15 years ago as a affordable project, as an adjunct to the Greens at Half Hollow Hills. It was to be set aside for affordable families. The Town when providing the zoning and site plan approval restricted the project to one bedrooms only. So in 2011 the NAACP and others filed a lawsuit against the Town of Huntington alleging racial and housing discrimination. And shortly a year or so after that, D & F Development got involved and -- to try and craft a compromise with the Town, with the NAACP and see if we could get the issue resolved.

Long, long story short, what ended up happening was that -- and of course, you know, the Court was involved. There was a settlement that was reached in February of this year, which called for 117 units of limited equity co-op plus a super's unit. And that was finally -- that was agreed to by the courts in April of this year. And the project is moving forward and we are scheduled to close before the end of this year and move forward.

We have set aside a minimum of 10% for veterans. We anticipate generating a minimum of 100 construction jobs and anywhere from three to four permanent jobs for this project. It will include a clubhouse, tennis courts. It's going to be a really beautiful project. I do have pictures with me if anybody's interested in seeing what the project will look like, but we are excited. There are a lot of steps that we have to go through between now and when we close, but we're competent that we will get there.

Thank you again very much. And here are some pictures. Thank you.

CHAIRPERSON CALARCO:
Thank you very much. Is there any questions? Okay. Seeing none, we'll move on. Our next speaker is Rob Fasano.

MR. FASANO:
Good morning. Thank you for hearing me. My name is Ralph Fasano. I'm the Executive Director of Concern for Independent Living. And we are proposing a project in Middle Island 123 units of housing; 50 supportive housing; 73 generic affordable up to 90% of AMI. This project has the support of the Middle Island Civic Association and the Longwood Civic Association. We think it does a lot of things.

The project -- the previous project developer was in bankruptcy when we entered the picture and we brought the project out of bankruptcy. The Town has had a long term plan to develop a center of town with a commercial area and surrounding market rate housing. This parcel is the only parcel that can do a sewage treatment plant that has permission to do that. We've raised all the funds to do that including, if the Legislature approves, the $1.5 million we're asking. It's a $50 million project. So the County percentage is a small share, but it's a very important share because it tells our other funding sources that the County is invested in this property and the project.

So we just -- this would be the third County project that we'll be doing in the last several years. The first one had a grand opening two days ago where close to 56 veterans are currently in our Amityville site. There's four more that are coming in by the end of this week. And I can tell you it was a joyous day to really walk around and meet the veterans and just see how happy they are; everyone from a 20-year-old Iraqi veteran to a 94-year-old World War II veteran. It's very gratifying to get these projects to fruition.

This project we have to close by year end, otherwise we lose $4 million in state funding. Long Island has lost its difficult-to-develop designation. I don't know why. It's difficult to develop as ever but we lost that. And with that we lose a 30% boost in the tax credits. So we lose about $4 million if we don't close by the end of this year. We're determined to do that. And we ask for your support.

This project will create jobs. The supportive housing component of it is geared towards working with high Medicaid users and getting them to use primary care doctors and nonemergency rooms and hospitals. And that will save Suffolk County money in addition to providing very much needed housing to people. There's a wide range of incomes here. And we've a rendering, but we develop very high quality housing. And this will not be any different. It's housing that we can all feel proud of. So I thank you for listening to me. Thank you.

CHAIRPERSON CALARCO:
Great. Thank you very much, Mr. Fasano. Where in Middle Island is this particular project?

MR. FASANO:
25 and Rocky Point Road.

CHAIRPERSON CALARCO:
Thank you very much. And if you could all just maybe stick around for a little while, we're going to get to the agenda pretty quickly, just in case there's any other questions as we get to the actual resolutions.

Okay. Our last speaker is Don Dailey. Don?

MR. DAILEY:
Good morning. My name is Donald Dailey. I'm a representative of the Suffolk County Association of Municipal Employees. I want to thank you for the opportunity to speak today. And I'll be very brief.

I'd like to speak on the resolution 1737. While AME supports -- excuse me -- AME supports initiatives that promote labor and protect the County worker. It is for these reasons that AME has worked so diligently -- diligently to negotiate a collective bargaining agreement that protects our employees from layoffs while also helping to ease financial burden to the County. The American worker has been the backbone of our country; and what is good for labor is good for America.

As lawmakers you are entrusted with a great responsibility to protect the progress that has been made in safeguarding the workers of Suffolk County and their families. The ultimate passage of this resolution will be your decision. We ask that you remember the contribution of Suffolk County labor to the American way of life as you consider this resolution. Thank you.

D.P.O. SCHNEIDERMAN:
Can I ask questions?

CHAIRPERSON CALARCO:
Sure. Mr. Dailey, if you stay there. Legislator Schneiderman has a question for you.

D.P.O. SCHNEIDERMAN:
Thanks for coming out this morning. Does AME have a position, yes or no, on this other than it's our decision to make?

MR. DAILEY:
AME's position is that this should be something that's -- that's done between the Legislator and the -- the Legislature and the union.

D.P.O. SCHNEIDERMAN:
In the form of contract negotiation or as legislation?

MR. DAILEY:
Contract negotiation.

D.P.O. SCHNEIDERMAN:
So then you would be against us passing it unilaterally?

MR. DAILEY:
AME -- we are in favor of protecting our workers and the interest of our employees.

D.P.O. SCHNEIDERMAN:
Do you consider this a violation of collective bargaining then?

MR. DAILEY:
I don't consider -- I don't consider this a violation.

D.P.O. SCHNEIDERMAN:
Okay, but you wouldn't -- I'm trying to read between the lines here. So it sounds like you do not support the passage at this time of this bill; is that correct?

MR. DAILEY:
What I'm saying is that the ultimate passage lies with the Legislature; that AME's position is that we are -- we are in favor of protecting the County workers. And that the decision -- decision should be made between the union and the Legislature.

D.P.O. SCHNEIDERMAN:
And this bill is designed to protect the workers of the County. So then you would support it?

MR. DAILEY:
I'm not taking an official position.

D.P.O. SCHNEIDERMAN:
Okay.

MR. DAILEY:
I'm saying that the union is in favor of protecting our employees. And that we want to -- that we want to have a dialogue and a continuing dialogue with the Legislature to protect our employees.

D.P.O. SCHNEIDERMAN:
Okay.

CHAIRPERSON CALARCO:
Okay. Legislator Browning has a few questions.

LEG. BROWNING:
Thanks. You know, I know I'm not on the Committee, but I appreciate the opportunity to speak. And I'm hoping I understand what you're saying, too, because, you know, I did speak with one of your union reps, with Mike Finland, regards to the bill because they did have some concerns about it. And clearly I understand, as do I feel the same way, is the issue of privatization of many functions within our County government. And we see it's going on nationwide, that there's privatization going on. It's going on -- there's -- there's been those issues. I look back at the -- a few years ago with the school bus industry where the school districts were giving up their school bus drivers and their buses to the private entities. And -- so it's my understanding obviously, and I'm asking you -- obviously your union is opposed to privatization; correct?

MR. DAILEY:
Yes, we are.

LEG. BROWNING:
Right. But you do support any legislation that would protect your workers in the event of

privatization.

MR. DAILEY:
That is correct.

LEG. BROWNING:
Okay. Thank you.

CHAIRPERSON CALARCO:
Okay. Any other questions for Mr. Dailey? Okay, let's move on. I have no other speakers. I have no other cards. Is there anybody else in the audience who would like to address the Committee this morning? Anybody else?

TABLED RESOLUTIONS

Seeing none, we're going to move on into the agenda. Okay. We are -- we have before us Tabled Resolutions. **IR 1737 (Adopting Local Law No. -2014) A Local Law to safeguard employees impacted by privatization. (Browning)**

LEG. LINDSAY:
I make a motion to table so we can discuss it further.

CHAIRPERSON CALARCO:
I have a motion by Legislator Lindsay to table.

LEG. McCAFFREY:
Motion to approve.

CHAIRPERSON CALARCO:
Motion to approve by Legislator McCaffrey.

LEG. HAHN:
Second.

CHAIRPERSON CALARCO:
Seconded by Legislator Hahn.

D.P.O. SCHNEIDERMAN:
To approve?

CHAIRPERSON CALARCO:
To approve. I have a second for approval.

D.P.O. SCHNEIDERMAN:
Personally, you know, I'm confused by the testimony from the rep from AME. I know there has been some questions raised in the past whether this bill in particular violates the collective bargaining agreement. And, Mr. Vaughn, maybe you could help to answer this, or maybe George. I would certainly like an opportunity to reach out to AME more directly; maybe have a sit-down so that I could find out more precisely what their view on this bill is, whether it violates the agreement or not. So, Mr. Vaughn, do you have any information that could help me out here?

MR. VAUGHN:
So, Legislator Schneiderman, first of all I would certainly ask the Committee to consider your

suggestion of clarifying AME's position on this. I was in the audience. I would not want to speak for AME. I don't have any right to speak for AME. I, too, was left somewhat confused as to their exact stance on the legislation. I have no desire to try to put words into their mouth or to try and decipher their intention.

I would, however, say that we maintain that we think this is a -- that this is in conflict with Taylor Law and with collective bargaining. I have Phyllis Seidman here with me today who will -- who can present legal arguments on why she feels this is a violation of that. Look, we -- the bottom line is there's -- we have the same position on this piece of legislation that we've held for a longtime; that is that we have negotiated protections for our workers. And we've negotiated very good protections for our workers. Our workers have a 60-day provision in which notification needs to be given so that -- so that way they have the opportunity to kind of make decisions during that 60-day notification. That's one protection that's -- it's a protection in other municipalities that have passed similar legislation. That was the point of the 90-day protection, to provide people the opportunity to set things up.

The other -- the other most important thing that we have, though, in -- right now in place is we have a no-layoff clause in place. We have a no-layoff clause in place that extends, I believe, through 2016. We've negotiated that. That was a -- that was a -- that was negotiated in good faith with the unions. And we think that that -- that that is where these types of -- that's where these types of negotiations should stay, in between unions and bargaining -- at the bargaining table.

D.P.O. SCHNEIDERMAN:
I completely understand what you're saying. Either it is or it isn't, though. And, you know, I have voted for this bill on the floor twice.

MR. VAUGHN:
I understand that, sir. I know that. I'm very well --

D.P.O. SCHNEIDERMAN:
I've supported it believing I think that it's the right thing to do. We've been through several privatizations. I understand there is no privatization on the table currently that's effect that -- that would lead to layoffs that this bill would cover.

MR. VAUGHN:
Sure.

D.P.O. SCHNEIDERMAN:
So I know that we're going through a transition with the health centers but -- but there's -- because of the no-layoff provision, there's nobody losing their positions.

MR. VAUGHN:
Right. The no-layoff clause is clearly established in the parameters that we adopted.

D.P.O. SCHNEIDERMAN:
My -- you know, I need to know whether the group that this is intended to benefit, which is primarily the Association of Municipal Employees, is in favor of this or not. And I was not able to determine that from the testimony today. And unless the gentleman wants to come back and clarify that for me, I'm going to support tabling it until I have a chance to speak with AME. So -- and I don't see him moving toward the podium so I'll leave it at that. I'll second the motion to table.

CHAIRPERSON CALARCO:
Okay. I have a second to the tabling motion.

LEG. BROWNING:
On the motion.

CHAIRPERSON CALARCO:
Sure, Legislator Browning.

LEG. BROWNING:
Okay. They keep using this "we have a no-layoff clause." Come 2016 everything is up for grabs. And I can guarantee you there's a very good possibility there will be layoffs. I think this Legislature by approving this is basically setting a position and taking a stand on how they believe our County workers should be taken care. We're never involved in collective bargaining. And, Kevin, you and I have both been involved in contract negotiations. We usually -- you know, three years at tops, is when you negotiate a contract. And everything is up for grab every time a contract comes up.

What this is saying is that we are setting a standard for County workers in the event of privatization outside of collective bargaining, that we want to make sure that every County worker that is privatized is guaranteed that they most likely can have that job that's been privatized. I don't think that's the worst thing to do.

Funny -- it was so funny because I talked before about the school bus industry. Because I've been there. And Legislator Calarco remembers the days when Legislator Eddington stood with the South Country School District drivers. A private company came in, took over the contract. They hired a lot of people, not from that school district. Now the people that they brought in were not residents. They took away the jobs, this company, to prevent a union from getting in; basically fired every one of those workers who have lived in that school district, were taxpayers in that school district, their kids went to those schools and worked in that district for 20, 30 years. And now they became unemployed.

It was funny because, Rob, on Friday I was talking to somebody from your district that owns a small business; sold his business to a larger -- I think you know who it is -- sold his business to a larger company. And I happen to be talking to him on Friday. And I says, "well, I heard that you're still running the company for the larger company." And he said, "oh,no, I'm not. But I made sure my workers were taken care of. And he kept -- the company kept my workers."

So in the private industry, it's happening. So why can't it happen in government? If you want to privatize your County workers, then you should at least try and take care of your County workers. And when they become privatized, at least guarantee them 90 days so they have an opportunity for collective bargaining, to organize a union. Because it's my understanding AME can no longer represent them.

So I just want to make sure that any worker who loses their County job will at least have a job. Now that's not guaranteeing their salary obviously. We have minimum wage standards. It guarantees that. But they have an opportunity for collective bargaining, to bring in a union and at least continue to work where they've been for many, many years. And I don't know any company who wouldn't want to take them other than their fear of the union.

So this has nothing to do with collective bargaining. This has to do with from today moving forward even when they don't have a contract in the event of privatization. This is a policy we're setting. And I don't see that it's interfering with the collective bargaining agreement. I did speak with Mike Finland. He came to my office. Clearly he said what I had said today, they do not support privatization of their functions. However, in the event that any job, whether it be our health centers -- look what's going on in Nassau County with the sewage treatment plants. With any function, you can privatize anything here in Suffolk County. You can privatize your Probation

Officers, Corrections Officers. Any function here in Suffolk County is up for grabs. And I just want to make sure that in the event that they're privatized, that they have an opportunity at least keep a job for 90 days and bring in that union. I don't think that's the worst thing we can do. Like you say, the small business owner in Rob's District, he was being a responsible employer. He decided to sell his company, but he made an agreement with the people who bought his company. And they agreed that they would keep their workers. What's wrong with that? And why shouldn't we be doing the same?

CHAIRPERSON CALARCO:
Legislator McCaffrey.

LEG. McCAFFREY:
Thank you. I just want to echo some of the comments made by Legislator Browning. I do want to point out there is a distinction between a no-layoff clause and what the purpose of this bill is; that a no-layoff clause which is -- first of all, as was said, expires in 2016 and everything's up for grabs, everything's up for negotiations at that point. But what this gives is going forward an opportunity for an employee, whether they're laid off or not, to stay in that employment for another 90 days. And if a private employer comes in -- and normally would come in with the idea that he's going to get rid of everybody that was there and bring in his own people, this gives an opportunity for people that worked there previously for any number of years to be able to show their work, show their value to that company and give them an opportunity to put their best foot forward, an opportunity to have a job well beyond those 90 days. And it's not guaranteeing them employment for life; it's just simply giving them an opportunity to show that they could add value to that company that's taken over.

Obviously the AME is in a better position with a no-layoff clause, but that could go away. And although the Administration has expressed to me that they have no plan for future privatization right now, there's nothing on the horizon, but we don't know what's going to happen in the future. And I think this just adds more protection to the workers of Suffolk County and I think we should support that.

CHAIRPERSON CALARCO:
Okay. Legislator Hahn.

LEG. HAHN:
I just think the fact that there are no plans at the moment makes this the perfect time to pass this bill because you don't get marred up in the details and the politics of any one particular privatization proposal. By doing this at a time when we're not considering anything, we can just be voting on the policy and whether or not we agree with the policy. And we're not -- anyway so -- and I'm very supportive and I'd like to be a co-sponsor. Thank you.

CHAIRPERSON CALARCO:
Ok, Legislator Schneiderman.

D.P.O. SCHNEIDERMAN:
Well, you know, based on Legislator Browning's, you know, testimony, I would expect Mr. Finley to say that he does not support privatization. That makes sense because that's how they lose their employees. This bill doesn't prevent privatization. This bill sets up a process in the event of privatization. But, you know, I'm supporting tabling because I need to -- for me I would like to hear very decisively from the individuals that this affects the most, whether they view this as a violation of their collective bargaining agreement. And if -- George, if you have an opinion whether you think it does or not, I would appreciate it. But, you know, right now I'm supporting a tabling.

MR. NOLAN:
Yeah, this bill -- you know, we considered this bill probably a year or two ago. And at that time I -- it was really the same thing. The County Attorney's Office said it interfered with the collective bargaining. And I said I don't believe it does. What it says is that if we're going to privatize a function, there has to be a Legislative resolution to approve that. And then any agreement we enter into with the private entity has to include the protection we've been discussing, which is they have to retain the County employees for 90 days. I don't see how that interferes with collective bargaining in any way. It really just affects the way we go about doing privatization if that's the will of the County Executive and the Legislature.

D.P.O. SCHNEIDERMAN:
So you -- you believe it doesn't; the County Attorney believes it does.

MR. NOLAN:
Correct.

D.P.O. SCHNEIDERMAN:
And the other side of this, the Association of Municipal Employees, I'm not sure whether they do or don't. But, Mr. Vaughn, it's your understanding that they do view this as a violation of collective bargaining?

MR. VAUGHN:
We --

D.P.O. SCHNEIDERMAN:
AME. You're not sure?

MR. VAUGHN:
No, Legislator, I would never -- I would never speak --

D.P.O. SCHNEIDERMAN:
Okay.

MR. VAUGHN:
-- on behalf of AME. That would be inappropriate.

D.P.O. SCHNEIDERMAN:
Okay. So that's what I need to find out.

MR. VAUGHN:
And that is why we would ask the Committee to take the time to find out, get a more definitive -- look, I will say this: To be perfectly honest, we would certainly invite -- love the Committee to take some time and speak to AME and get a clearer position on what AME's position exactly is. That being said, we are always going to -- the Administration is going to view this as a violation of the Taylor Law and continue to raise opposition to this legislation as it is formatted at this time.

D.P.O. SCHNEIDERMAN:
Just to be clear, my own perspective is -- from a policy perspective I think it's a good bill. And if the other side of the collective bargaining agreement feels it is not a violation, not going to challenge it on that ground, and you have an opinion from the Legislature that it's not a violation, Administration feels it is, I am likely to support this bill. I'm willing to give one cycle to figure out where AME is on this issue in terms of whether they believe it's a violation or not but --

MR. VAUGHN:
I -- no, I certainly understand that, sir. And I have --

D.P.O. SCHNEIDERMAN:
Okay.

MR. VAUGHN:
I've spent a great deal of time looking at the -- looking at the previous debates that we've had on this bill. And I've spent a great deal of -- I understand completely where your position is having studied it for quite -- for quite a longtime. I would just -- I would just take issue, though, with a couple of things that have -- have been kind of -- that have been said here.

The statement that come 2016 a guarantee of layoffs, I don't know why anybody would guarantee that there would be layoffs in 2016. I fortunately didn't haven't to -- didn't have to sit behind the horseshoe when you guys debated the, you know, the agonizing decision of laying off County employees. But I certainly don't think that anybody is looking forward to having that debate again any time soon. Our economy's improving. Our budget looks better. Even the Comptroller in his backhanded way said that our budget's headed in the right direction. So I think that things are -- that economically this County is going -- is going to a good place. I don't think that come 2016 -- I pray to God that come 2016 we wouldn't be in a position where we would even have to consider layoffs. We've taken actions. We've taken very strong actions, very decisive actions to return our budget to fiscal stability. So why -- why would we think in, you know, two years from now that we'd have to, you know, enter into another debate on layoffs? That would be a horrible thing to -- horrible place to be back into. If that happens, I think that we all quite -- maybe we've -- anyway.

I would also say that, you know, Legislator Browning brought up a very good point when she talked about the business owner, the small business owner who negotiated protections for his employees. Negotiated them with the person that was buying his business to protect the individuals that were there. And that goes right back to our point. These things can be negotiated. Deals that we work through come back over to the Legislature for approval. If there is not proper protection or if the Legislature does not feel that there is proper protection, irregardless of what the contract says, these deals do come back over to the Legislature for approval. There is protection there.

I would also say that we've had a lot of discussion about, they can have that job after it's been privatized. And that's not exactly accurate either. This bill -- this law does not protect the exact job that a person can have. It merely says that they can be employed. A person who is working as a doctor theoretically could be assigned to, you know, do maintenance on the building. This law is silent on that. So we continue to have serious reservations and objections to the legislation.

CHAIRPERSON CALARCO:
Okay. Are you done, Legislator Schneiderman? That was your time.

D.P.O. SCHNEIDERMAN:
No more questions.

CHAIRPERSON CALARCO:
Okay, Legislator Cilmi.

LEG. CILMI:
Thanks, Mr. Chairman. Tom, you said you have legal Counsel here to describe some of the -- some of the legal issues?

MR. VAUGHN:
Yes, sir.

LEG. CILMI:
Through the Chair, could I ask that that -- whoever that is come forward and --

CHAIRPERSON CALARCO:
Sure. Absolutely.

MS. SEIDMAN:
Good morning, Phyllis Seidman from the County Attorney's Office.

MS. GELLERSTEIN:
Move the mike down.

MS. SEIDMAN:
How's that? Was there a question?

LEG. CILMI:
Phyllis, how are you? Mr. Vaughn suggested that the County Attorney's Offices believes this is a violation of the Taylor Law. Could you just expound on that, please.

MS. SEIDMAN:
You know, we do believe that the employees at issue are represented and should be represented in the transaction. So any business deal we would be making to privatize, we would essentially be representing a workforce that's represented already, which we believe is a violation of the Taylor Law.
And, you know, there were some good points raised, you know, as I was listening, and some points raised in the past on this issue. And I do think that all of these issues and all of these deals and all of these negotiations need to be considered on a contract-to-contract basis. And I do feel that sometimes you can be hurting your workforce, because a lot of employers who are taking over what was currently or previously a government function do want to have a smooth transition and may want to keep some of the workforce, if not all of the workforce. And by forcing this provision on them, you actually take away the ability of the union, AME in this case, to negotiate for those employees because of the -- if the successor employer decides to take with them more than half -- or 50% or more of the employees that he'll be hiring, will be County employees, then he has a duty and an obligation to negotiate with them and to negotiate with their union and to make a bona fide offer of, you know, employment, terms, conditions, pay, benefits. And he has a duty to negotiate with them in good faith.

Absent that, there has been case law in the Eastern District, which says that the -- that these types of laws negate that -- that obligation to negotiate. And that after 90 days, you can essentially fire the entire workforce for non-cause. So I do think we do a disservice in a way if we don't look at each deal at its face. I do know with some of the health centers that in considering, you know, how to handle the transition -- we always did want to maintain continuity of care for the patients. We did want a very smooth, what we would call a seamless transition each time. How do we get to a seamless transition? That was the goal each time. And if, in fact, there were union issues, then the successor employer doctrine would factor in. So I think we might be a doing disservice in some cases to certain employees in certain transactions by passing this law.

LEG. CILMI:
Thank you for that answer. When we -- when we -- when the County is proposing privatization, the contract that necessarily emanates from that would come before the Legislature for approval.

MS. SEIDMAN:
That's correct. A transaction --

LEG. CILMI:
In all circumstances?

MS. SEIDMAN:
You know, I hate to stand here and say all circumstances, but I can't think of any off the top of my head where we wouldn't come here.

LEG. CILMI:
Okay. So, as you -- as you said, at that point the Legislature has the ability to review the provisions of that contract, look for protections of our employees in that individual contract and make a decision as to whether or not to accept or deny that contract --

MS. SEIDMAN:
That's correct.

LEG. CILMI:
-- based on those provisions. And as I recall when we -- when we went through the whole debate on Foley, that was sort of a key component of our debate, was how are we going to protect the employees that are currently at Foley within the confines of the -- I guess the two separate contracts that we attempted to enter into from the County's point of view.

MS. SEIDMAN:
Correct.

LEG. CILMI:
Yeah. Tell me a little bit about -- more about what you said with regard to 50% of the employees. I'm unfamiliar with that.

MS. SEIDMAN:
Well, I'm not a labor law expert, but I do know that if the employer -- the proposed new employer, does take 50% or more of the employees currently performing the function for the County, then there's an obligation -- and there are several other factors that a Court could consider, you know, so that's the standard of whether that new -- whether our contractor is, in fact, the successor employer. And in this case when you're taking over a County function, I would think that in most cases the job responsibilities and everything that we're transferring would be similar enough to implicate the successor employer doctrine.

So once that kicks in, then the new employer would have to recognize the collective bargaining representative; in this case AME. And AME would actually go with the employees, even though we think of them as, you know, a representative of public employees. Once they became privatized, AME would actually go with the employees if the employees chose to keep AME as their collective bargaining representative. And the new employer would need to make them, you know, a good faith offer, a bona fide offer, you know. It couldn't be any lowballing. They would have to really bargain in good faith with AME. Or the employees could choose a new union if that were the case. And I think there's some time limitations for when all this has to take place, which I can't recall off the top of my head. So there are protections. And that's under the National Labor Relations Act. Those protections are guaranteed.

You know, we thought about that with some cases with the health center transitions. So all of these things came into play, which kind of comes back to the point, you have to look at each deal on its face, see what's going on. You don't want to impede the Administration's ability to bargain for the best deal for the entire County; not just for what in some case might be five employees. And certainly we want to protect employees. You know, I'm protective of my job. I'm sure everybody else is. And I do understand, you know, the need to protect -- protect people's jobs. But you don't -- you also have to be able to negotiate in terms of what the best deal is for Suffolk County as a whole. And whether in this case, it's appropriate to maybe lose a deal or not get the most fiscally responsible deal because you have a law that's impeding your ability to maybe negotiate some of those employment terms.

LEG. CILMI:
Thank you. I'm uneasy about this for a number of reasons, some of which you've talked about. Tom, if I could ask you to come back to the microphone, you mentioned something about a 60-day provision that's -- I guess in the contract now?

MR. VAUGHN:
Yes, sir.

LEG. CILMI:
What does that require exactly?

MR. VAUGHN:
The 60-day notice, to the best of my knowledge, says that we need to give employees 60-days notification of an impending layoff or termination. And what is interesting about that is that I spoke this morning, as a matter of fact, with a County Attorney down in Montgomery County, as they have passed -- as they have passed a displaced worker law. And I was asking them because they have this 90-day provision for -- for displaced workers. And I was trying to get to the heart with that individual as I was discussing it as to why they have that there. And they said, "well, look, it's there to allow -- to allow people to get their affairs in order so that way they know. We have a group of workers who are -- who are subject to the whims of businesses. And they very often previously to the adoption of the Montgomery County Law had no notification."

I said "so, if we have a contract that provides people 60-days notification, it's comparable." That's where we're -- that's what you guys were trying to get to, to provide similar protection to a contract that would offer 60-day notification. And their response was, "yes, that that's precisely what it's there for, to try and give that additional notification to allow people the opportunity to get their affairs in order prior -- prior to being dismissed."

LEG. CILMI:
Yeah, see, that was -- that was -- that has been my argument with this -- with this issue the last time or two that it's been before us, is that I think it's better for the County to provide protection to our employees under their current working conditions, their current salary, their current level of benefits, etcetera for a length of time, whether it be 60 or 90 or whatever. Certainly, you know, the longer, the better -- well, maybe -- maybe that's not true. But 90 days, I think, is better than 60 days. And I don't guess that we as a Legislature could change that at this point given that it's part of the contract. As opposed to, you know, requiring a private employer to hire folks that he may or may not want to hire to meet -- to keep folks employed who may or may not be productive, who may or may not be -- fit within the culture of the company.

And -- so I would much rather have those employees protected here where we have -- where they enjoy all the protections that, you know, a municipal employee enjoys as opposed to being forced on a private employer that, you know, is not required to offer all of those protections, is not required to offer the same salary, the same benefits, etcetera.

You know, I'd be willing -- I'd be willing to offer a motion to discharge without recommendation just to share the debate with -- with all 18 of our -- all 17 of my colleagues here for Tuesday. But I'm still uneasy about the details of this and I can't -- I can't outright support it today.

CHAIRPERSON CALARCO:
Okay. We have a motion to discharge without recommendation.

LEG. HAHN:
Second.

CHAIRPERSON CALARCO:
You're already -- are on a motion. So you're going to withdraw your other -- you are -- Legislator Hahn, I think you are the second to the approval motion. You can't -- you can't -- you can't make two motions.

MR. NOLAN:
You want to withdraw the second on the approval motion?

LEG. BROWNING:
I would be fine with the discharge, but I'd like to kind of respond to a couple of the comments.

CHAIRPERSON CALARCO:
Let me -- let me sort this motion issue out and then I have you on the list, Legislator Browning. So I have a motion to discharge without recommendation. I have a motion for approval and a second. And I have a motion for a table and a second so --

LEG. McCAFFREY:
I'll withdraw my motion to approve and change that to a motion -- or you made a motion --

CHAIRPERSON CALARCO:
Okay, the motion to approve has been withdrawn. Legislator Hahn now would like to second the motion for a discharge without recommendation. And Legislator Browning would like to add to the debate.

LEG. BROWNING:
Okay. I am glad that you actually reached out to Montgomery County because the sponsor of the bill happens to be a {Valerie Irving}; actually a good friend of mine in Montgomery County. We were both -- she worked at the National Labor College, the George Meany Center, when I was a student there. And actually a few months ago I happened to be sitting with her and talking about this specific bill, which I got a lot of my information from the sponsor of the Montgomery County bill. And that's why I'm doing it again. However, the nice thing is in Montgomery County is they're doing it not just for the public employees but they're doing it actually in the private sector also.

So, however, neither here nor there, I heard the comment about it's not -- you know, it's taking away our ability, you know, to -- the union's ability to negotiate in the event that the workers become privatized. I don't think that's true. And actually I spoke with Mike Finland because many years ago I was an AME member. And when I -- when the William Floyd School District decided to get rid of their buses, they went with Laidlaw. And AME at that time represented those drivers. So when that new company came in, AME had to negotiate a new contract with the drivers. The good thing was the company did retain all the drivers.

Now, I was a delegate with AME back then. And I remember going to a convention. And I'm -- actually I'm -- I did ask Mr. Finland if he would like to check his bylaws and constitution, because back then when I was at that convention, there was a discussion regarding privatization and a municipal workers' union representing a private entity. And I do believe that at that time, and I'm trying to remember exactly what year it was, early '90s, I believe, and I believe at that time there was a discussion and there was a decision to no longer represent any entity that became privatized.

So when you say that AME can take over, I am actually -- it's been awhile so I am checking on that. So it is my understanding that AME can no longer represent those members once they become privatized. I'd like to -- I'm working on confirming that information.

MS. SEIDMAN:
We checked that.

LEG. BROWNING:
Say again? You're going to have to come up to the mike.

MS. SEIDMAN:
Just to address that point, throughout all the transactions with HRH, I did go on the AME website and I did look at their bylaws and whatever I could find on there. And there was provision for extending themselves beyond --

LEG. BROWNING:
Okay.

MS. SEIDMAN:
-- the County membership in situations such as this.

LEG. BROWNING:
Okay. Well, I'll confirm that with the union, but I know that that was a discussion. So in all reality, this bill does not prohibit them from continuing to represent the members, if they can. It also gives them, the workers, an opportunity to bring in any union, just like it's happened here in Suffolk County with the municipal employees. So, again, I'm hearing a lot of *it's a violation of the Taylor Law.* I really don't understand how that can be because you're no longer -- once you become private, you're no longer are covered under the Taylor Law.

So, again, I will follow-up my conversation. I would appreciate maybe a discharge without recommendation. I will follow up with AME. And if they don't want this, I'll pull it off. I'll take it off the table. But my general feeling and, again, because I come from a labor background, I never make apologies -- California passed a displaced worker legislation; New York City passed a displaced worker legislation; California's passed a displaced worker legislation. And it's all been supported by unions. In fact, brought to the many entities from unions to try and protect workers. So, you know, this is definitely -- when I've heard comments about it's not a pro-labor bill, absolutely it is.

And, again, I'll follow up with AME. If AME does not want this and doesn't want protections -- because if you have to worry about this in every collective bargaining contract that you're working on, then good luck with that. Because I know what you're saying is that it should be negotiated. However, County Executives change. And you never know which one you're going to get. And I don't think it's a bad idea to have a policy set here in Suffolk County that you will protect your workers in the event of privatization. And that policy stays no matter what County Executive you have and whether you have or do not have a contract.

CHAIRPERSON CALARCO:
Okay. Thank you, Legislator Browning. Just one minute, Mr. Vaughn. I, you know, haven't chimed in on this debate yet. And I am sitting here with my head spinning. I've supported this

resolution both previous times that Legislator Browning has brought it forth. So I actually have a question for the union.

So, Mr. Dailey, if you could please, I got two very simple questions for you that I think will give me at least some clarity and where I would like to go with this right now. Because I think this is what you were trying to say, but I don't think any of us heard it clearly. The union supports the idea of what's being proposed in this resolution in terms of giving your employees some safeguards should something happen in the future in terms of privatization; yes?

MR. DAILEY:
Yes.

CHAIRPERSON CALARCO:
But the union -- it also the union's position that that particular item is something more appropriately done in a negotiation between the union and the County.

MR. DAILEY:
That's correct.

CHAIRPERSON CALARCO:
Okay. Thank you very much.

LEG. McCAFFREY:
Can I say something?

CHAIRPERSON CALARCO:
Sure, Legislator McCaffrey.

LEG. McCAFFREY:
If I were a union official and someone --

CHAIRPERSON CALARCO:
I thought you were a union official.

LEG. McCAFFREY:
(Laughter) I am. And if someone were to come to me and say *we want to privatize your jobs, we're against that,* I would have a difficult time if I were to add protections in there, it would almost give the appearance that I'm promoting the privatization of the work by providing protection to those that have been privatized. It puts the union in a very difficult situation when you ask them to support something that is actually going to help people who have been privatized when you're taking the position that you don't support privatization.

So, from a union perspective I could understand the position that AME is having a difficult time, and I don't want to speak for them, but if I were up here protecting my workers, I would have similar concerns about supporting -- coming out and supporting this legislation because it could be misconstrued to suggest that you're supporting privatization.

CHAIRPERSON CALARCO:
Legislator Schneiderman.

D.P.O. SCHNEIDERMAN:
I hear Legislator McCaffrey. I do believe this is well-intentioned legislation designed to protect the workers. It's important to me that I have a sense of what the bargaining unit representing the

workforce thinks. So it's hard to guess how they feel. So a month gives the sponsor time to reach out; it gives me time to reach out so I can clarify where that -- where AME is on this position. So I'm continuing to support tabling this bill.

CHAIRPERSON CALARCO:
I'll be honest. Though I voted for this twice, I'm leaning towards a tabling motion right now because the union is sending me a pretty clear signal that this is not something that they're looking for at this moment. And I think that that needs to be -- we need to have that sorted out. Because in both previous versions, I think they were pretty loud and clear they supported the resolution. So I cannot surmise the difference in opinion from then to now for them. I can only take them at their word and what they're saying. What they're saying is they feel this is a negotiated item. You know, I don't know where we take it from there, but it sounds like there needs to be a conversation between yourself and the union and --

LEG. BROWNING:
But that's the problem. I did. Mike Finland came to my office. We discussed it, we talked about it. Clearly -- he was very clear that --

CHAIRPERSON CALARCO:
Then there needs --

LEG. BROWNING:
-- they're not supporting privatization.

CHAIRPERSON CALARCO:
Then there needs to be negotiation among the executive board or the union to figure out what their -- what their official position is going to be.

LEG. BROWNING:
But --

CHAIRPERSON CALARCO:
I got to leave that for them to do. You know, I'm not the -- I am not their -- the union. And I'm not their executive board. They have to make their decisions as they make their decisions. And, you know, I just --

LEG. BROWNING:
Well, I --

CHAIRPERSON CALARCO:
I've always respected the decisions and positions taken by all of the various bargaining units that come before this body.

LEG. BROWNING:
And like I said, if you want to discharge without recommendation, and the union between now and Tuesday tells me that they don't support this anymore after talking to them a few days ago where they did support it, I'm pulling the bill on Tuesday. That's it. You know, I think it -- you know, it's common sense that we're setting a policy to protect our workers; that it's not something they have to worry about from one County Executive to the next; that this is something that they have to negotiate in the event of privatization. To me, if I was them, I'd be supporting this because I'd want the protection for my union members. Clearly they don't support privatization and I've said clearly I don't. I never have. But, again, I think this is something that protects them permanently. And it's never something they have to worry about in negotiations.

Kevin and I have both sat through contract negotiations. It is so hard, especially these days, to keep things in your contract and to keep your hours, your pay scale, your health insurance. They have so many things they have to negotiate every year. At least this is one thing they know that they're going to be able to say *that's not something we have to worry about* and negotiate every contract. And I think it's a policy, we as Legislators, can set in place.

CHAIRPERSON CALARCO:
Okay. I think we've had as much debate as we're going to have on this issue. I'm going to call the vote, Mr. Vaughn.

Tabling motion goes first. All those in favor? Opposed?

LEG. McCAFFREY:
(Raised hand)

LEG. CILMI:
(Raised hand)

LEG. HAHN:
(Raised hand)

CHAIRPERSON CALARCO:
Abstentions? Tabling motion fails. **(VOTE: 3-3-0-0)**

We have a discharge without recommendation. All those in favor? Opposed? In favor?

MS. GELLERSTEIN:
In favor raise your hand.

MS. FLESHER:
In favor of DWR?

MS. GELLERSTEIN:
Yeah.

MS. FLESHER:
Four.

CHAIRPERSON CALARCO:
Opposed? Abstentions?

D.P.O. SCHNEIDERMAN:
(Raised hand)

LEG. LINDSAY:
(Raised hand)

CHAIRPERSON CALARCO:
Abstentions? We have two abstentions. **IR 1737 is discharged without recommendation. (VOTE: 4-0-2-0. LEG. SCHNEIDERMAN and LEG. LINDSAY ABSTAINED)**

INTRODUCTORY RESOLUTIONS

Okay, moving on, Introductory Resolutions. **IR 1827, Authorizing the sale of County-owned real property pursuant to Section 72-h of the General Municipal Law to the Incorporated Village of Mastic Beach for affordable housing purpose (SCTM No. 0209-026.00-05.00-037.000 f/k/a 0200-980.60-05.00-037.000) (Co. Exec.)** Kate, this is what I thought you were here for. (Laughter) I'll make a motion to approve; second by Legislator Lindsay. All those in favor? Opposed? Abstentions? **IR 1827 is approved. (VOTE: 6-0-0-0)**

IR 1828, Authorizing the sale of County-owned real property pursuant to Section 72-h of the General Municipal Law to the Incorporated Village of Mastic Beach for affordable housing purpose (SCTM No. 0209-024.00-06.00-058.000 f/k/a 0200-980.40-08.00-058.000). (Co. Exec.) I'll make a motion to approve; second by Legislator Lindsay. All those in favor? Opposed? Abstentions? **IR 1828 is approved. (VOTE: 6-0-0-0)**

IR 1829, Authorizing the sale of County-owned real property pursuant to Section 72-h of the General Municipal Law to the Incorporated Village of Mastic Beach for affordable housing purpose (SCTM No. 0209-032.00-05.00-024.000 f/k/a 0200-983.30-07.00-028.000) (Co. Exec.) Same motion, same second. All those in favor? Opposed? Abstentions? **IR 1829 is approved. (VOTE: 6-0-0-0)**

IR 1839, Authorizing transfer of surplus County computers to Town of Huntington for use at the Huntington Opportunity Resource Center. (Co. Exec.) I'll make a motion to approve; seconded by Legislator Hahn. All those in favor? Opposed? Abstentions? **IR 1839 is approved. (VOTE: 6-0-0-0)**

IR 1847, Authorizing planning steps for implementation of Suffolk County Workforce Housing Program Highland Greens of Melville. (Co. Exec.) I'll make a motion to approve. Do I have a second?

LEG. LINDSAY:
Second.

CHAIRPERSON CALARCO:
Second by Legislator Lindsay. I just had one quick question for you, Miss Appel, if you could come up real quick. I had -- something popped in my mind after listening to your testimony. And I just wanted to -- I have a question for you. So this particular development being's done and they're going to be co-ops?

MS. APPEL:
Yes.

CHAIRPERSON CALARCO:
So that the people who are in there are going to, I guess, accumulate some sort of equity in their time there.

MS. APPEL:
Yes.

CHAIRPERSON CALARCO:
But that equity, there's not going to be a -- a actual mortgage holder. Who's going to -- how's that going to work, then, that equity? Does the developer hold the -- hold the equity for -- you know, who's -- what's the -- what's the entity here that they're paying into?

MS. APPEL:
It'll be the Cooperative.

CHAIRPERSON CALARCO:
The Cooperative.

MS. APPEL:
Yes.

CHAIRPERSON CALARCO:
And then when they sell the -- when they sell their unit, because presuming that's how they're building their equity, how does that work? Then who gets paid off? Who gets the money?

MS. APPEL:
I'm going to --

CHAIRPERSON CALARCO:
How is that split? All right. Sure, sure.

MS. APPEL:
He'll probably give you the specifics. Thank you.

MR. FLOREY:
When -- because it's affordable and because they can't sell for more than what they acquired it for so that we can keep it affordable, when they go to sell, they'll simply transfer it back to the co-op; and the co-op will out of the wait list of people who are waiting to come in, that's how the next shareholders will be selected. So you're asking how --

CHAIRPERSON CALARCO:
So who's developing the project?

MR. FLOREY:
D&F is developing the project along with the Long Island Housing Partnership. So what's going to happen is we will -- we will initially be cosponsors as the project is developed. Once it is completed, D&F, the private developer, drops out and the Long Island Housing Partnership remains in as a sponsor that will own the building and the land. It will be leased to the co-op. And the co-op will then act as, you know, as other co-ops would act.

CHAIRPERSON CALARCO:
So D&F builds the property.

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
You turn it over to the co-op entity.

MR. FLOREY:
We actually turn it over -- it actually goes -- the building and the land goes to the Long Island Housing Partnership, who will then lease that to the co-op.

CHAIRPERSON CALARCO:
Okay.

MR. FLOREY:
Yeah.

CHAIRPERSON CALARCO:
Long Island Housing Partnership is a great entity. They're going to -- they're going to qualify the potential residents, get them in there, make sure that they meet the guidelines in terms of both --

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
-- making too much money, but making enough money they're going to be able to pay their bills.

MR. FLOREY:
Correct.

CHAIRPERSON CALARCO:
Right. So then those entities, those residents are going to be paying into the co-op. And then the co-op is going to have required payments, D&F, that's how you get your --

MR. FLOREY:
No. The way --

CHAIRPERSON CALARCO:
How does -- how does the developer get made whole?

MR. FLOREY:
The developer is made whole -- there is a permissible developer fee in the financing structure. And that's how the developer is made whole.

CHAIRPERSON CALARCO:
So the developer is going to finance the project -- finances this project.

MR. FLOREY:
We obtain the financing through New York State Housing Finance Agency.

CHAIRPERSON CALARCO:
There's something on the top that --

MR. FLOREY:
The tax credit.

CHAIRPERSON CALARCO:
There's something on the top that makes the developer gives you, you know, the profit that --

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
-- makes it something that you'd want to do, which is understandable.

MR. FLOREY:
That's correct.

CHAIRPERSON CALARCO:
And the co-op takes on responsibility of those debts?

MR. FLOREY:
No. Actually what's going to happen because the Long Island Housing Partnership, then, is the sponsor and is going to be owning the property, they're taking the responsibility of those debts. And as I mentioned, they're going to be entering into a long-term lease with the co-op. It's a 99-year lease so -- but it ultimately really is the Long Island Housing Partnership that is going to be responsible.

CHAIRPERSON CALARCO:
So Long Island Housing Partnership is going to own the debt.

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
And then the co-op -- then they're going to have a 99-year lease with the co-op.

MR. FLOREY:
Yes, that's correct.

CHAIRPERSON CALARCO:
And then the co-op is going to share sells to the residents.

MR. FLOREY:
Right.

CHAIRPERSON CALARCO:
And the shares are going to have, you know, there are no down payment.

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
You're going to pay what is -- basically around what standard rent is for the area now based on the guidelines. And that payment is going to go towards paying the debt that --

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
At least payment that the co-op pays and that is what pays the debt off?

MR. FLOREY:
That's correct. That's right.

CHAIRPERSON CALARCO:
And then when a resident decides to move --

MR. FLOREY:
Right.

CHAIRPERSON CALARCO:
And they sell their share, they're actually selling it back to the co-op --

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
-- for what they've invested already?

MR. FLOREY:
Yes, exactly. Right. So that the next person --

CHAIRPERSON CALARCO:
So then the co-op -- the co-op bears the responsibility of -- who determines the price of that share? The co-op, not the resident? It's not a negotiation between the resident and the potential purchaser? It's a negotiation between the co-op and the potential purchaser?

MR. FLOREY:
There's no negotiation. It's going to be pre-determined. It'll be based on what the -- what the maintenance charge is at that time. Because to get into the co-op, they'll require a one-month maintenance and one month -- you know, one month maintenance as your purchase price and one month maintenance as your first -- first payment. So that's what -- that's what it's going to be for all --

CHAIRPERSON CALARCO:
For the resident -- for the new resident coming in.

MR. FLOREY:
Yes, that's correct.

CHAIRPERSON CALARCO:
In perpetuity.

MR. FLOREY:
Yeah.

CHAIRPERSON CALARCO:
So who -- but the resident who's leaving who is not taking equity, where are they getting that equity from then?

MR. FLOREY:
They're not -- they're not accruing equity. What's happening --

CHAIRPERSON CALARCO:
I thought that's what we heard before, is they're going to accrue equity so when they're --

MR. FLOREY:
No.

CHAIRPERSON CALARCO:
They're going to own their share.

MR. FLOREY:
No.

CHAIRPERSON CALARCO:
And then when they leave --

MR. FLOREY:
No.

CHAIRPERSON CALARCO:
-- they're going to have -- they're going to have equity to take with them to possibly invest into another property. That's -- that's -- I misunderstood that?

MR. FLOREY:
No, no. Let me try and -- let me explain to you how that's going to work. How do they benefit?

CHAIRPERSON CALARCO:
Well, how is it any different than a rental?

MR. FLOREY:
How is it any different. Let me explain how that is. So in a normal rental situation you have income, expenses and profit. Okay? So in this case since it is a co-op, you have the maintenance payments from the -- from the shareholders; you have the expenses that have to be paid; and then you have a surplus, right, as opposed to profit. So there's no -- there's no owner here who, you know, profit will be accruing to. It's a surplus. What happens is that because this is a rent-restricted development, rents that the co-op owners pay -- or the maintenance that the co-op owner pays cannot exceed a certain level.
Let's say that that level is a thousand dollars a month. Okay? On a normal rental situation where it would be affordable to households between 60 and 80% of area median income and you had that cap of a thousand dollars, that would be it. They would be paying their rent. There would be expenses paid and there would be a profit to the owner.

In this case what's happening is that surplus is going to the co-op. Right? So what the co-op can then do is turn around and adjust the maintenance charges to reflect that surplus so that once it has been established what the surplus amount is going to be in the coming year, they can then reduce the amount of maintenance charged to the co-op shareholder moving forward so that they're paying less, marginal, maybe a hundred dollars less, than what they would otherwise be paying if they were a normal renter.

We had offered an alternative structure, which was having the surplus accruing, right? But under the -- under Section 143 of the IRS Code, in using -- and we're using tax exempt bonds for financing, that structure was not permissible, which is why it wasn't done that way. So we did in the alternative, the residents are still getting the benefit. They're getting it earlier than they would have otherwise gotten it. And that's -- that's how it was structured.

CHAIRPERSON CALARCO:
So the builder gets his money by getting extra money in the financing. The finance -- the debts then go to the Long Island Housing Partnership. The Long Island Housing Partnership gets their debts paid because the co-op has a lease with them.

MR. FLOREY:
That's correct.

CHAIRPERSON CALARCO:
The shareholders of the co-op pay that debt because their monthly expenses are going to be the maintenance charges of the facility plus the debt service charge that --

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
-- the co-op has to make.

MR. FLOREY:
Right.

CHAIRPERSON CALARCO:
Then if there's any surplus on the top of that payment, that then goes towards reducing the shareholders' future --

MR. FLOREY:
Monthly maintenance.

CHAIRPERSON CALARCO:
-- monthly cost for the following year.

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
But then, of course, then that surplus is going to not exist the following year so then rent -- their payments are going to go up the following year after that because then they've got to make up for what that --

MR. FLOREY:
No.

CHAIRPERSON CALARCO:
Yeah, when you spend the surplus to cover a monthly recurring expense, then when that surplus expires and you don't have it anymore, then you have to make that up from someplace else.

MR. FLOREY:
No, no, no. There's always going to be a growing reserve fund. So that's going to be part of the monthly maintenance charge. That will always grow. The surplus, again, in a normal rental situation, you would have --

CHAIRPERSON CALARCO:
You'd have a profit.

MR. FLOREY:
You have profit, right. Here there is no profit. That which would have gone into profit will go into reducing future maintenance charges. Does that make sense to you?

CHAIRPERSON CALARCO:
So you're always going to have a profit margin built into their -- into their rates. But that profit margin then goes back into reducing their rates.

MR. FLOREY:
Yeah. In any financing structure, you always have to have --

CHAIRPERSON CALARCO:
Sounds very confusing.

MR. FLOREY:
You'll always have to have -- in any financing structure, you always have to have a debt coverage ratio, right? The bank is not going to be comfortable with it unless they know that there's some cushion there.

CHAIRPERSON CALARCO:
Sure, in case --

MR. FLOREY:
No, that money --

CHAIRPERSON CALARCO:
Being that -- you know, they want to make sure that there's the ability to pay.

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
So if one or two shareholders miss a month or two --

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
You want to make sure there's a cushion there to pay for --

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
-- to cover that.

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
Which would otherwise come out of the landlord's pocket if he's --

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
You're the landlord, right.

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
And that's the risk that they run in running -- in renting a property, is that the tenant won't pay their rent and then they not only not make their profit, but they're not paying their -- they gotta pay the bills on --

MR. FLOREY:
And just as parenthetically, you know, to address that issue, there's a set aside of three times the normal operating reserve in this project to address that very issue. In the event that there is an issue, that there's surplus -- that there is a reserve set aside three times the normal amount to address any shortfall.

CHAIRPERSON CALARCO:
But under this structure -- because I thought I heard earlier in the testimony that the residents, because they're going to be co-op owners, not just renters, are going to develop -- are going to acquire equity, which then is going to help them transition into a different, you know, housing in the future should they be ready. Right? So, like, I'll give you an example of a project that we had in Patchogue.

MR. FLOREY:
I understand.

CHAIRPERSON CALARCO:
And don't get me wrong, I'm not -- I'm not trying to be difficult here. I very much support affordable housing programs and the thought of trying to give people some empowerment to move themselves forward and -- you know, in Patchogue we have built Cooper Beach. Cooper Beach are townhouses. They're condos. They're owner-occupied. You go out, you get your mortgage. Now the units that are affordable housing are literally about half the cost of the units that are not affordable housing, the workforce housing components. I know people who live there now and I know people who had lived there and they have moved out since. And they, you know, having that condo, really didn't -- because it's a workforce housing unit, didn't get to sell the unit for much more than what they got it for, but in doing so, they were building equity by having that ownership share. And so then they were able to take that equity and put it towards their down payment of their future home, because they were a little -- it's a little two-bedroom unit. And once you have a family and you have more than one child, you really don't fit in it anymore. So you gotta go buy a house.

So the thought process here is that you're going to give people equity by having a co-op, which is, you know, a different model than a condo but in a lot of ways very similar. And it's another great way for people to be able to build equity and move on when they're ready. But if they're not actually developing equity here, then where -- is that what I'm hearing? They're not actually going to be developing equity so we're not going to actually be giving them any kind of money back in their pocket for when they decide that they're ready to move on and move out of this unit.

MR. FLOREY:
The way that they're able to build a -- what will be, not equity in the unit but a savings is through the savings that they will get by the fact -- by virtue of the fact that they're in a co-op as opposed to in a comparable -- comparably-financed rental.

CHAIRPERSON CALARCO:
So they're going to get savings by not having to pay extra money --

MR. FLOREY:
They're not going to have to --

CHAIRPERSON CALARCO:
But it's also going to be incumbent on them to take that --

MR. FLOREY:
It is.

CHAIRPERSON CALARCO:
-- savings and put it in the bank. Where as when you have a condo or a co-op or any other private property that you build equity in, you never actually have that money until you sell that product, you know, sell that piece of real estate. So we're not really giving people equity.

MR. FLOREY:
That's correct.

CHAIRPERSON CALARCO:
What we're doing is we're giving them -- it's a convoluted way of giving them a reduced cost of their housing now. I highly doubt, and this is really not to speak negatively of anybody, I think I would do the same thing because it's just human nature, I think, but those individuals are going to like say "oh, I'm only paying 1100 this month instead of 1200 and so I'm going to take that extra hundred and save it." Whereas they might not -- just take that extra $100 and use it to buy something. Because I fully believe anybody in the middle class, if they get extra money in their pocket, they're going to spend it, you know, for the most part.

MR. FLOREY:
Sir, your point is very well taken. And we actually -- it was initially our desire to structure it exactly as, you know, what you're suggesting would be a better alternative. The fact is that the financing, the taxes -- the financing that we're getting did not permit us to do it that way unfortunately. So we had to -- you know, we're using this alternative, which at the end of the day, provides the exact same benefit to the resident that the earlier method did. It's just that it's not as structured --

CHAIRPERSON CALARCO:
What it does is it provides it in the form of a --

MR. FLOREY:
It's a forced savings.

CHAIRPERSON CALARCO:
That we have in like the Art Space units in Patchogue where you have a not-for-profit --

MR. FLOREY:
Right.

CHAIRPERSON CALARCO:
-- running a rental community. And the not-for-profit clearly isn't making profit on it, although they make sure they make enough money to pay their bills and etcetera, but they -- they're not making money. The residents enjoy a lower cost housing than would otherwise exist in a regular private development without affordable housing.

MR. FLOREY:
And that will certainly be the case here. I mean the comparable housing in Melville, for what this is going to be is going to be more than double what's going to be charged there.

CHAIRPERSON CALARCO:
I fully understand that and believe that, so.

MR. FLOREY:
This, quite frankly, you know, was a structure that was reached in a compromise with the Town to get them over the -- you know, how-do-we-get-equity housing challenge.

CHAIRPERSON CALARCO:
Okay. I guess I through this out, I got a lot of people involved -- interested now. Legislator McCaffrey has a question.

LEG. McCAFFREY:
Yeah, I was listening intently and I really thought we were getting close to answering the question I had. Then I spoke to Legislator Cilmi and I thought I had it figured out, but I don't. So someone buys -- are they actually purchasing these units?

MR. FLOREY:
They are purchasing for a nominal amount equal to one month maintenance and one month -- actually two months maintenance. One will be applied to their first month's maintenance.

LEG. McCAFFREY:
So they're not really --

MR. FLOREY:
Nominal amount.

LEG. McCAFFREY:
So they're not really buying this for $100,000.

MR. FLOREY:
There's no mortgage. It is a very, very small amount that they're putting into this that they'll get back when they -- when they depart.

LEG. McCAFFREY:
Okay. That answers the question. Thank you.

MR. FLOREY:
Sure. By the way this -- needless to say, this is a unique structure that --

CHAIRPERSON CALARCO:
Oh, it's clearly a very unique --

MR. FLOREY:
-- we have cobbled together over some --

CHAIRPERSON CALARCO:
Did I hear when a person leaves their unit, the only thing they're walking away with is whatever they happened to have been able to save up while they were living in that unit.

MR. FLOREY:
Yes.

CHAIRPERSON CALARCO:
Okay.

LEG. CILMI:
And what they initially put into it. The small amount that they put into it.

MR. FLOREY:
That's right.

CHAIRPERSON CALARCO:
What do you mean the initial?

LEG. CILMI:
Well he said --

MR. FLOREY:
The monthly maintenance that they put in. That will be returned to them. So it's a --

CHAIRPERSON CALARCO:
For their first month's rent. Like your security deposit.

MR. FLOREY:
Something like that.

CHAIRPERSON CALARCO:
Okay. Sounds good. Okay. Very good. I didn't mean to run you through the ringer. I just wanted to kind of understand that a little bit better than -- I remember reading about it in the paper and it always confused me a bit so I do appreciate you answer my questions.

MR. FLOREY:
You're not alone.

LEG. CILMI:
Can I add to it?

CHAIRPERSON CALARCO:
Oh boy, now we got the real tough questions coming. Legislator Cilmi.

LEG. CILMI:
(Laughter) So how is this -- how does this differ from a rent situation? Is it the only difference is that they have the equity of their initial one month's rent investment or what's --

MR. FLOREY:
That's one. The real difference, as I explained earlier, is that in a Section 42, in a tax-credit funded residential project, and I have a colleague here who will back me up on this, normally what happens is that -- okay, let's take a two-bedroom unit that would -- in a rental. Right now that two-bedroom unit would go -- in a tax credit scenario would rent for approximately $1550 a month. In this case what's going to happen is that -- and that 1550 is made up of the income, you know, less the expenses.

LEG. CILMI:
Right.

MR. FLOREY:
And whatever profit, a/k/a surplus is there. So in this case what's going to happen is that the profit is no longer in the picture. There is a surplus that accrues. And what's going to happen is that in -- after a year or two of knowing what -- you know, what is being collected, that surplus will then be used to reduce the maintenance charges in future years. So whatever surplus -- so what they're actually going to end up paying might be $100 less than what they would have normally paid. That's where they're going to benefit, in that surplus amount.

LEG. CILMI:
So the only -- the only difference here between --

MR. FLOREY:
-- (inaudible) it's as if you don't have a private developer.

LEG. CILMI:
-- a rental is that you have -- you have maintenance charges.

MR. FLOREY:
Well, actually --

LEG. CILMI:
And your rent is lower commensurate with those --

MR. FLOREY:
Your monthly maintenance is lower than what it would be if you were a renter. I mean, needless to say, you know, in a tax credit-funded project, they're going to charge the maximum amount always. They're going to always charge the maximum amount, you know, provided the market can support it. And certainly in this case there's just no doubt that the market will support that in Melville. That monthly rent in a rental situation will always be at its maximum amount that can be charged here because we have that surplus, we can reduce the maintenance charge a/k/a rent. It can be reduced.

LEG. CILMI:
Yeah, I get that. I get the whole reduction of the -- based on --

MR. FLOREY:
And that's the distinction.

LEG. CILMI:
Okay. Thank you.

CHAIRPERSON CALARCO:
Okay. I think we have all our questions answered. Thank you very much. We appreciate it.

MR. FLOREY:
Any time you have questions.

CHAIRPERSON CALARCO:
Do we have a motion on this, Madam Clerk? We do have a motion and a second? All those in favor? Opposed? Abstentions? **IR 1847 is approved. (VOTE: 6-0-0-0)** Good luck with your project.

IR 1849, authorizing funding of infrastructure improvements and oversight of real

property under the Suffolk County Affordable Housing Program and execution of agreements, Concern of Middle Island (Co. Exec.) I'll make a motion to approve; second by Legislator Lindsay. All those in favor? Opposed? Abstentions? **IR 1849 is approved. (VOTE: 6-0-0-0)**

I have no other items on my agenda today. Seeing none, we are adjourned.

THE MEETING CONCLUDED AT 11:27 AM
{ } DENOTES SPELLED PHONETICALLY