

**HEALTH COMMITTEE  
OF THE  
SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Health 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 Thursday, March 17, 2016 at 2:30 p.m.

**MEMBERS PRESENT:**

***Legislator William Spencer - Chairman***

*Legislator Bridget Fleming - Vice-Chair*

Legislator Robert Calarco

Legislator Monica Martinez

Legislator Tom Cilmi

Legislator Robert Trotta

Legislator Leslie Kennedy

**ALSO IN ATTENDANCE:**

*P.O. DuWayne Gregory - 15th Legislative District*

George Nolan - Counsel/Suffolk County Legislature

Sarah Simpson - Counsel/Suffolk County Legislature

Jason Richberg - Clerk/Suffolk County Legislature

Amy Ellis - Chief Deputy Clerk/Legislature

Elizabeth Alexander - Aide to Legislator Spencer

Debbie Harris - Aide to Legislator Stern

Marie Barbara - Aide to Legislator Cilmi

Seth Squicciarino - Aide to Legislator Hahn

Ali Nazir - Aide to Legislator Kennedy

Phillip Scholz - Intern/Legislator Kennedy

Greg Moran - Aide to Legislator Trotta

Robert Lipp - Director/Budget Review Office

Craig Freas - Budget Review Office

Dr. James Tomarken - Commissioner/Department of Health Services

Christina Capobianco - Deputy Commissioner/Health Department

Walter Dawydiak - Director of Environmental Quality/SC Health Dept

Lisa Santeramo - Assistant Deputy County Executive

Katie Horst - Director/Intergovernmental Relations-CE's Office

Mohammed Awais - County Executive Assistant

Kerri Suoto - County Executive Assistant

Chris Sortino - Chief Public Health Sanitarian/SC Dept of Health Svcs

Michele Carruthers - Intern/Suffolk County Department of Health

Douglas King - SC Disability Advisory Board

Erin King - Resident of Central Islip

Sydney Levine - NephCure Kidney International Foundation

Michael Martinsen - Resident of Montauk

Kerri Winans Kaley - Resident of Cold Spring Harbor

All Other Interested Parties

**MINUTES TAKEN BY:**

Alison Mahoney - Court Stenographer

**MINUTES TRANSCRIBED BY:**

Denise Weaver - Legislative Aide

*(\*The meeting was called to order at 3:03 P.M. \*)*

**CHAIRMAN SPENCER:**

Good afternoon. I apologize, I indicated we were going to start a few moments ago. We are acknowledging the last day of Katie, who's been working with us, and we're just having a brief reception in the back just to say goodbye and wish her well. So we're just having a little cake in the back.

But in any case, we're going to begin the Health Committee. If we could stand for the salute to the flag to be led by Legislator Fleming.

***Salutation***

If you could please remain standing for a moment of silence, as always, for all those who are serving this country, both at home and abroad.

***Moment of Silence Observed***

Thank you. Good afternoon, once again. We apologize for the delayed start. Just a couple of announcements.

Happy St. Paddy's Day. I know that she's not on this committee, but she served for a long time; Chairwoman for Public Safety, Kate Browning, has an excused absence from committees today, and we hope all of you will have a safe and healthy St. Patrick's Day.

We -- I don't have any cards at this time.

**MS. ALEXANDER:**

Yes, you do.

**CHAIRMAN SPENCER:**

Is there anyone that wishes to be heard? I do have one card and that's from Sydney Levine with NephCure Kidney International. So, Sydney, welcome. And if you wouldn't mind coming up to the podium and you have three minutes to be able to address the committee, and thank you for being here.

**MISS LEVINE:**

Ladies and Gentlemen of the Legislature, good morning. My name is Sydney Levine, I am 15 years-old and I am a sophomore at Half Hollow Hills High School East. Thank you very much to Steven Stern, Lisa Deutsch, Debbie Harris and Mary Young for giving me this opportunity to speak to you today. It's an honor.

I'm here to help save my 12 year-old brother's kidneys. Matthew has been battling a rare kidney disease called FSGS. FSGS has no known cure or cause. My family has teamed up with the NephCure Kidney International Foundation, [www.nephcure.org](http://www.nephcure.org), in order to bring awareness and find a cure for FSGS and Nephrotic Syndrome.

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NephCure is involved in many projects such as the Neptune Project which includes NIH participation. NephCure has created a patient registry database and is now involved in groundbreaking research at the University of Michigan. It is my dream and goal to bring awareness and exposure to FSGS, Nephrotic Syndrome and NephCure. We need to deliver a cure to everyone around the world that is battling this disease like my brother, Matthew.

My family's battle began ten years ago. Matthew was waking up with his eyes 80% closed and blown up like balloons. After a kidney biopsy, our family got the devastating news that Matthew has FSGS. One in every two Americans will battle chronic kidney disease in their lifetime, 23 Americans are battling kidney disease as we speak. FSGS and Nephrotic Syndrome are the two most devastating kidney diseases.

Eighty thousand Americans lost their battle to chronic kidney disease last year, which is more than breast cancer and prostate cancer combined. Eight thousand new people are diagnosed with FSGS each year in the United States, 5,000 which are children. Some doctors believe chronic kidney disease is the next epidemic of our generation. FSGS is the leading cause of kidney failure in children in the world. Eleven percent of the world's population is battling chronic kidney disease. FSGS and Nephrotic Syndrome have no boundaries, they affect all ages, genders and colors. FSGS is five times more prevalent in the African American community.

We spend \$30 billion a year taking care of the kidney patients in our country. What if we could find cures for these diseases, then we wouldn't have to spend \$30 billion a year taking care of kidney patients.

Matthew's cholesterol has reached 375, his blood pressure has gone through the roof. He takes 12 to 15 pills a day and has been on many chemotherapy-like drugs. Matthew's kidneys will likely fail and he will need a kidney transplant. The transplanted kidney is attacked by FSGS 50% of the time or more.

Alonzo Mourning has had a kidney transplant due to his battle with FSGS. There is a man on Long Island that has had four kidney transplants and the new kidney was attacked all four times by FSGS. So what can I do and what can we do? March is Kidney Awareness Month. Last March I started the Stand Up to be Counted Selfie Challenge on social media. I want to thank Congressman Steve Israel for giving me the High School Hero Award for bringing awareness to Kidney Awareness Month and for posting his selfie on social media.

This March I started the *31 Days of MARCHing to Awareness Campaign*. Every day I post on social media a way to bring exposure to FSGS and Nephrotic Syndrome. For example, I celebrated Nephrologists and spoke about kidney disease to a third grade class. I am running two fundraisers this weekend, speaking in front of you will be today's post.

Failure is not an option. Some doctors believe that if we unlock the doors to FSGS and Nephrotic Syndrome we will unlock the doors to diabetes and other chronic kidney diseases. It takes one billion dollars to raise a new drug, to bring it into the market in this country, so we need to raise a lot of money. Please consider helping me to deliver a miracle to my brother and to so many others that are suffering. Perhaps you will help me raise awareness by sharing this story on your social media and sharing it to other local and national politicians and media outlets.

As Matthew's favorite creator, Walt Disney, once said: *The way to get started is to quit talking and begin doing*. This is what you have allowed me to do today. Thank you for listening and thank you for this opportunity.

**LEG. CILMI:**

Don't go away. Doc, can I just --

**CHAIRMAN SPENCER:**

Thank you so much. We have a couple of questions for you. We appreciate your -- again. Legislator Cilmi.

**LEG. CILMI:**

I have no question. Thank you for being here again. Love to help you spread awareness. I'm sure all of us here have Facebook pages. You can go on, just Google Suffolk County Legislature, you'll find all of our names, and then I would suggest to go on Facebook and look us all up, send friend requests or whatever, and I'd be happy to have you post something on my Facebook page about your story.

**MISS LEVINE:**

That'd be great. Thank you.

**LEG. CILMI:**

Okay? You're welcome.

**CHAIRMAN SPENCER:**

Are there any other questions? No? We support you. I think it's just a really noble mission. I appreciate you creating the awareness and that's probably the most important thing, but just to be able to stand and address this Legislature, as you've done over the course of this month so eloquently I think really -- I'm inspired to know that there are young people out there that make the future of our County very bright. So thank you.

**MISS LEVINE:**

Thank you.

**CHAIRMAN SPENCER:**

Thank you very much. I appreciate your time.

That's the only card that I have. Is there anyone else that wishes to be heard? Is there anyone else that wishes to be heard from the public comments? Seeing none, we will close the public comment.

The next item was a presentation that we were going to do on the upcoming plastic bag, but due to the lateness of the committee starting, we're going to defer that presentation for this meeting. And we also have a lot of people who are here for approval to serve on different -- for appointments for different committees. So we're going to -- looking at the length of the agenda, by the time we make the resolutions to pull them out of order, it's probably just as expedient for us to cover the agenda. So we're just going to continue the agenda. I'm going to start -- Madam Clerk, are you ready? You're okay?

**MS. ELLIS:**

Yep, I am.

**CHAIRMAN SPENCER:**

Thank you.

**Tabled Resolutions**

So **IR 1000-16 - Adopting Local Law No. -2016, A Local Law to increase awareness of dry cleaning chemical use. (Hahn)** Motion to table, public hearing is still recessed. Second to the motion by Legislator Calarco. All those in favor? Opposed? Abstentions? Motion is tabled. **Tabled for Public Hearing (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)**

**IR 1020-16 - Adopting Local Law No. -2016, A Local Law to ban the sale of formaldehyde for use in holding tanks. (Spencer)** The public hearing is still open, so motion to table. Second by Legislator Fleming. So IR 1046 to appoint to -- I'm sorry, the vote. All those in favor? Opposed? Abstentions? IR 1020 is tabled. **Tabled for Public Hearing (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)**

**IR 1046-16 - To appoint member to the Food Policy Council of Suffolk County (Michael Martinsen). (Hahn)** Is Michael here?

**MR. MARTINSEN:**

Yes.

**CHAIRMAN SPENCER:**

Michael, welcome to the committee. If you wouldn't mind would you please come forward. And, first of all, thank you for your time and coming out this afternoon. And also, thank you for your willingness to serve on the Food Policy Council. So I will make a motion to approve. May I have a second?

**LEG. FLEMING:**

Second.

**CHAIRMAN SPENCER:**

And so now we have a motion and a second. Before we take the vote, what usually was our tradition is that we would like to give you a couple of minutes to introduce yourself. You can just tell us your name, where you're from, how long you've been in Suffolk County, and maybe just your interest in food or your credentials. I know, I think we have your resume, but, thank you. The floor is yours.

**MR. MARTINSEN:**

Thank you. My name is Mike Martinsen. I am a lifetime resident of Suffolk County; born in Smithtown, raised on Eaton's Neck in Northport, and currently living in Montauk. I'm a commercial fisherman by trade and an oyster farmer. So my life is -- is supported through providing food to the people, and it's very important to me that the people have a secure food and safe food to have on their plate.

**CHAIRMAN SPENCER:**

Thank you. Thanks for that introduction. One question I always ask of anyone serving on the Food Policy Council and that I was shocked to see is that, you know, in some of our most affluent communities we see that there are families that are really -- that are food poor. There are food pantries that service a great number of people in the community and I think all of us have neighbors that are constantly wondering where their next meal's going to come from.

But on the other hand, we find that there's greater than 50% waste of food as far as early -- food that is thrown out because of it not fitting the size and shape for retail display, our farms that you have incomplete harvesting or it's just not really expedient to do the extra labor, or foods that are just placed in the dumpsters because of expiration dates that may be arbitrary. Do you have any

thoughts about this issue; on the one hand we're starving, at the same time we're wasting half of our food supply?

**MR. MARTINSEN:**

Especially when it comes to commercial fishing, and my experience is on commercial fishing boats. The way the current laws are written, most of the commercial fisheries that I've been involved with are only allowed to land certain species and only certain amounts of those species, and yet they can kill all the fish they want in the process of getting those fish. There's a lot of wasted fish that gets pushed over the side before the boat gets back to the dock. So a huge amount of protein that goes to the birds and the crabs and to waste. Just one major catastrophe that I've been a witness to.

I do have a food pantry next door to where I live in Montauk and we haven't brought oysters to them directly, but they did express an interest. So maybe we'll try that this summer.

**CHAIRMAN SPENCER:**

Again, I don't expect that you have solutions to these issues, but the awareness, just knowing that the awareness is there, especially with our food. As we -- our Food Policy Council, as you make policy moving forward, anything that we can do to address the shortage of food and the waste of food is something that I think is -- would be good government and also will help to protect our planet and our environment and also our families.

So if you could keep that in mind as one thing -- my desire as Chair of this committee, it would be something that would be very important. And I look forward to maybe asking you, hopefully, as you come up for reappointment, well, if you're here, a lot of people don't come back in when they're reappointed, but I hope that you will continue to work on this issue.

**MR. MARTINSEN:**

Thank you.

**CHAIRMAN SPENCER:**

It's important. Legislator --

**MR. MARTINSEN:**

One other --

**CHAIRMAN SPENCER:**

Go right ahead, and then Legislator Trotta has a question.

**MR. MARTINSEN:**

Another thought when it comes to wasted food. A lot of the high-end restaurants, Montauk has become a -- the high-end kind of destination and the restaurants focus on premium plates; anything that's not premium is going in the dumpster. So there's an opportunity for some kind of maybe a food recovery program at high-end restaurants.

**CHAIRMAN SPENCER:**

Oh, that would be really important. Legislator Trotta.

**LEG. TROTТА:**

What kind of commercial fishing do you do?

**MR. MARTINSEN:**

I currently own the Montauk Pearl Oyster Farm and Montauk Shellfish Company in Montauk, New York. We also, like, fishing-wise on the weekends I still fish for lobsters out in the Atlantic Ocean.

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In my earlier years I fished for lobsters in Long Island Sound. I was a victim of the 1999 die-off, which sent me back to Stony Brook University to get my degree in Biology and ultimately back out fishing again in Montauk.

**LEG. TROTTA:**

So you oyster farm. You hang them?

**MR. MARTINSEN:**

Yes. We buy seed from a hatchery and then we grow the oysters in grow-out bags in various places in Lake Montauk and in Block Island Sound, also in Great South Bay.

**LEG. TROTTA:**

Okay, so you travel, okay. It's sad. I, too, used to scuba dive and get lobsters in the Sound, but they're gone.

**MR. MARTINSEN:**

The die-off was tragic. It was the second die-off that I endured, the first being the natural oyster set. We had wild oysters that basically it was my beginning and in about 1996 there was a disease called MSX and another disease called Dermo that just destroyed the entire wild population of oysters in the Long Island Sound estuary.

I fell back into the lobster industry at that point and three years later that took a hit. Then I was clamming in Staten Island, Raritan Bay doing the clam transplant and those clams -- my rake was coming up with 20% dead clams and I saw another disease coming. That was QPX and it just -- it really scared me. I think that our environment or our estuaries, our groundwater, I mean, the Earth is the mother we all share. So utmost respect to everyone here, but -- and, of course, to the mother we share. That should be our priority in everything we do.

**CHAIRMAN SPENCER:**

Have you noticed an increase in pollution in our estuaries, or what are you seeing? What's coming up most frequently?

**MR. MARTINSEN:**

I believe that in my lifetime I've witnessed down -- as a downfall, I've witnessed the demise of shellfish populations. I've witnessed incoming currents of invasive species from becoming a more global community. I feel that the -- that our septic systems on Long Island are a serious problem and that -- and that we have a population density issue here.

**CHAIRMAN SPENCER:**

Fair enough. We could go down this line of questioning just with the regards to what you do, especially you used to live out on Asharoken and I know we've had a big turnaround over in Huntington, too, with seeing the nitrogen levels go down and we knew we need to do other things. But I digress. We appreciate your credentials and I'm looking forward to supporting you and looking forward to, you know, having you serve pending the outcome of this vote and I think you are in pretty good shape.

So with that, we'll call the vote. All those in favor? Any in opposition? Any abstentions? Congratulations. Thank you again for your time. **Approved (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)**

**MR. MARTINSEN:**

Thank you.

**CHAIRMAN SPENCER:**

This committee is the first step. The final vote happens Tuesday, but you don't have to come in, I imagine that you'll be approved. And again, thank you for your time. I really appreciate it.

**MR. MARTINSEN:**

Thank you very much.

**CHAIRMAN SPENCER:**

We have a fairly short agenda, but I do want to spend a little time on 1151, the sponsor is here. So with -- I'm just going to skip over that and come back to it in just a moment.

***1156-16 - Adopting Local Law No. -2016, A Local Law to expand public notification of sewage contamination in Suffolk County. (Krupski)*** Motion by Legislator Fleming, second by Legislator Kennedy. All those in favor? Opposed? Abstentions? 1156 is passed. ***Approved (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote).***

**Introductory Resolutions**

***IR 1183-16 - Appoint member to the Wellness Program for County Employees (Kerri Winans Kaley). (Lindsay)*** Kerri is with us today. Kerri, welcome and please come up. And while she's coming up, I'll make a motion to approve. Is there a second? Second by Legislator Fleming. All right, for the purpose of discussion. Welcome. And, once again, if you wouldn't mind introducing yourself and giving us just a little bit about where you're from and why you would be a good person to serve on the Wellness.

**MS. WINANS-KALEY:**

Thank you. Can you hear me?

**CHAIRMAN SPENCER:**

Yes, we can.

**MS. WINANS-KALEY:**

My name is Kerri Winans-Kaley. I have lived in Suffolk County my whole life. I grew up in Stony Brook and I currently reside in Cold Spring Harbor. Over the past seven years -- I actually started my own business seven years ago providing early detection screenings for heart disease. I travel the Tri-State area providing screenings and education and wellness solutions to many who suffer from heart disease. I'm very passionate about this. I have a significant family history, and by providing people with information in advance of disease states, I feel that that's a very, very important and useful tool.

I work with many organizations. We are actually just currently partnered with North Shore LIJ as well, and it's very exciting for us because we are working to really provide wellness solutions to as many people as possible. Thank you.

**CHAIRMAN SPENCER:**

Thank you. Cold Spring Harbor.

**MS. WINANS-KALEY:**

Yes.

**CHAIRMAN SPENCER:**

I have the privilege of being your Legislator.

**MS. WINANS-KALEY:**

Yes, thank you.

**CHAIRMAN SPENCER:**

So, thank you. So talk about just this partnership with Northwell. What are they doing? What are -- what's the -- the plan of the collaboration?

**MS. WINANS-KALEY:**

Well, because I am traveling around to various organizations, their mission is to provide the communities with information about wellness. So we are working together to do community outreach programs, to do screening programs, and we're very excited about that because it's an opportunity to work and collaborate with a huge organization, as you know, and their mission to serve the community is tremendous and I'm honored to work with them. So I'm looking forward to being a part of this committee.

I'm also a -- the secretary for the Health and Wellness Committee for the Firefighters Association for the State of New York. So really our mission is to provide as much information about health as we can. I'm -- this is -- you know, the health of the nation it really is -- it's very sad and I think that educating people is really important. Being a small business owner and starting out by -- on your own is very, very challenging. I have three boys who don't get to see mom that often because I travel all over the place, but when people come up to you and write you letters and thank you for changing their life through the screening programs and the education, it's incredibly rewarding.

So I have to say that I'm looking forward to working with the County and giving back to the County that I have loved, I don't want to say for how many years, if you don't mind.

**CHAIRMAN SPENCER:**

All right.

**MS. WINANS-KALEY:**

But it's been a long time.

**CHAIRMAN SPENCER:**

Well, the awareness is, again, the most important thing. We still have high levels of diabetes, cardiovascular disease, diet, obesity, sugar tends to be -- some of the, I guess, the big factors. I mean, is that -- would you -- would you agree with that assessment? Are there other -- I'm sure there are other factors; socioeconomic status, cultural difference. What do you see as being the biggest challenges that we face?

**MS. WINANS-KALEY:**

I think having people understand that it's not going to take a day to change your life. It didn't take a person a day to become in the state they're in, it's not going to take them a day to fix their issues. And, you know, the media is all about losing weight in 30 seconds and I really -- it's very disturbing to me because people don't have any idea what they're putting inside their bodies and understanding what the impact of those foods and the choices that they're making.

So I really feel, and obviously we know heart disease is the number one killer in this country and the comorbidities associated with heart disease are, you know, are tremendous. So through education I feel that if you can get some people to embrace a slow and steady approach to a lifestyle change and they see that it's not so difficult if you give them little -- little ways to achieve those goals, I think that, you know, more and more people embrace the change. And the long-term healthcare costs will go down, we all know that, the statistics are staggering. And if we can make a -- the society healthier, it'll affect all of us on every level.

**CHAIRMAN SPENCER:**

Well, I thank you. I'm very proud that you're one of my constituents and, you know, I appreciate your willingness to serve. Is there any other questions? Seeing none, we'll call the vote. All those in favor? Any in opposition? Any abstentions? Motion is carried unanimously. **Approved (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)** Congratulations.

**MS. WINANS-KALEY:**

Thank you so much.

**CHAIRMAN SPENCER:**

Thank you. Final approval, again, will be at the full meeting -- session of the Legislature on Tuesday, but you don't have to appear. Thank you.

**MS. WINANS-KALEY:**

Thank you very much. Have a great afternoon.

**CHAIRMAN SPENCER:**

Thank you.

The next resolution, **IR 1184-16 - Appoint member to the Wellness Program for County Employees (Jacqueline Moline, M.D.). (Lindsay)** And Jacqueline could not appear, but she plans to appear Tuesday before the Legislature. So what we have to do is I'm going to make a motion to discharge without recommendation. We have a second for that motion? Second by Legislator Kennedy. All those in favor? Opposed? Abstentions? So we'll hopefully have Dr. Moline appear at the Legislature on Tuesday evening. **Discharged Without Recommendation (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)**

IR 1226 - I'm, sorry, **1207-16 - Adopting Local Law No. -2016, A Local Law prohibiting the distribution of plastic carryout bags used in retail sales. (Spencer)** I'll make a motion to table for public hearing. All those in favor? Opposed? Abstention? Motion is --

**MS. ELLIS:**

Who is the second?

**LEG. FLEMING:**

*(Raised hand).*

**CHAIRMAN SPENCER:**

Second by Legislator Fleming. All those in favor? Opposed? Abstention? Motion is tabled for public hearing. **Tabled for Public Hearing (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)** To my colleagues, I apologize in advance, but we're going to have a brisk and lively debate.

**IR 1226-16 - Approving the reappointment of Douglas King to the Suffolk County Disabilities Advisory Board - Group D. (Pres. Off.)**

**LEG. CILMI:**

Motion.

**CHAIRMAN SPENCER:**

Motion, second. But Douglas is here, and although he doesn't have to appear, he's someone that's engaged, extremely active, he's done a fantastic job. Welcome, Douglas. What we can do -- would you like to come up? Okay, thank you.

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**MR. KING:**

Even though I don't have to appear, I would like to make a brief statement to this committee that I feel is very important. Thank you, Dr. Spencer, for giving me the opportunity to speak before the committee and good afternoon to the rest of the Health Committee.

I'm sitting here before you today to talk to you about me becoming a part of the Suffolk County Disability Advisory Board again. I am happy to serve as part of the board for the past two years, having learned a lot about government.

I'm going to tell you a little bit about myself, for those who don't know me. I was born with Spina Bifida, which is a birth defect. I am 43 years-old. I'm happily married to my wife Erin who is sitting behind me today. I have been involved in wheelchair sports for over 25 years. The sport that I love to play is wheelchair curling. There's a reason why I am telling you this. In wheelchair curling there are two different colored stones; one of them is a red stone, which for this instance we will call the Republicans, and one of them is known as the blue stones which we will call the Democrats.

*(\*Laughter\*)*

The idea is to get the stone closest to the house or what I call the bulls eye. The play that comes -- the player in this game is going to be people with disabilities. Suffolk County has over 300,000 people with disabilities in this County. My job on the advisory board is to make sure that everybody gets a fair throw in the game.

I can tell you every time that I have spoken before the Legislators, I have always started my statement with, "I'm here as a member of the Suffolk County Disability Advisory Board. I'm here speak to you on behalf of people that are not able to speak for themselves. On several occasions this body of Legislators, meaning the Legislators as a whole, had made bad decisions for people with disabilities before even taking any of the members of the Suffolk County Disability Advisory Board's thoughts on what is being brought before them. I am asking that if there is a resolution before you and it's on the Disability Advisory Board, that you come and ask us what our thoughts are on the different resolutions.

I can also tell you this is free advice, otherwise what is the sense of having a Suffolk County Disability Advisory Board if you, the Legislators, won't listen to what we, the people with disabilities, need best. Thank you.

**CHAIRMAN SPENCER:**

Thank you. You're a familiar face, you're an inspiration. You give us guidance, you call us aside and you also kind of advise us privately, too. And I am always reassured when you're here with us and I thank you for your commitment to coming out and being a part of the process here, so thank you. So with that, I'll -- we have a motion and a second already; is that correct?

**MS. ELLIS:**

Yes.

**CHAIRMAN SPENCER:**

All right. All those in favor? Any in opposition? Any abstentions? The motion is carried. **Approved (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)** Congratulations, and thank you, thank you very much.

**MR. KING:**

Thank you.

**LEG. CILMI:**

Thank you.

**CHAIRMAN SPENCER:**

All right. **IR 1232-16 - Declaring March As "Kidney Disease Awareness Month" in Suffolk County. (Stern)** And Sydney is watching us very carefully, she's spoken to us, so I hope that we can do the right thing here. I'll make a motion to approve. Second by Legislator Kennedy. All those in favor? Any in opposition? Any abstentions? Motion is carried. **Approved (VOTE: 8-0-0-0 -- P.O. Gregory included in the vote)** Thank you very much, Sydney. We appreciate it.

(\* Applause \*)

**IR 1236-16 - Adopting Local Law No. -2016, A Local Law to regulate the use of the term "Organic" by dry cleaning establishments in Suffolk County. (Hahn)** Has to be tabled for a public hearing. Motion by Legislator Trotta, seconded by Legislator Cilmi. All those in favor? Opposed? Abstention? Motion is tabled. **Tabled for Public Hearing (VOTE: 8-0-0-0 – P.O. Gregory included in the vote)** Thank you.

So we're going back to IR 1151. And I also, as I see some are leaving, I wanted to acknowledge our Commissioner, Dr. Tomarken, is here with us. Thank you, Dr. Tomarken. Is there anything that you have to report?

**COMMISSIONER TOMARKEN:**

No.

**CHAIRMAN SPENCER:**

No? Thank you for being here. I see Walter's with you. Thank you very much. So today you – I guess, you'll keep us posted on Zika. Okay, thank you.

**Tabled Resolutions (Cont'd)**

So **IR 1151-16 - Adopting Local Law No. -2016, A Charter Law to elicit public input and require legislative approval of fee changes. (Cilmi)**

**LEG. CILMI:**

Motion.

**LEG. KENNEDY:**

Second.

**CHAIRMAN SPENCER:**

Motion by Legislator Cilmi, second by Legislator Kennedy.

**LEG. FLEMING:**

This is to table?

**LEG. CILMI:**

No, the public hearing is closed.

**CHAIRMAN SPENCER:**

No, the public hearing is closed. This is the motion to approve. We have a second motion to table by Legislator Calarco.

**LEG. FLEMING:**

I will second.

**CHAIRMAN SPENCER:**

And seconded by Legislator Fleming. So we have a motion to approve, a motion to table. On the motion, Legislator Cilmi.

**LEG. CILMI:**

Sure. So just a quick explanation for the committee. Currently, the Suffolk County Health Department has the authority within the Suffolk County Sanitary Code to change, raise, reduce, whatever -- a number of fees and fines associated with the Sanitary Code. And, in fact, at the beginning of this year, they did change a number of those fees and fines, was many of them, instituted a couple of new ones and, you know, we got this by way of a memo. They're able to make these changes unilaterally, basically, without any public input at all and without any approval of this body.

As you all know, most fee and fine schedules that -- that we have in place here in Suffolk County are authorized by this Legislature. Normally they're requested by the Administration and we have an opportunity to discuss the increases or the new fees or what have you, weigh the pros and cons, ask questions of the department as to why they might be raising fees and come to some conclusions and either say, *All right, we understand, it makes sense*, or, *No*, and we don't have that opportunity with these particular fees.

So very simply what this bill would do is it would bring any of those fee increases to the Legislature for approval and would require that the Legislature hold a public hearing before approving those fees. I think it's basically an assertion of this Legislature's authority as a budgetary oversight, as a separate but equal branch of our government in Suffolk County. We are ultimately responsible for the budget in Suffolk County, and so I think any of those decisions that include -- that would affect revenue in the County and that would impact our residents and our businesses in Suffolk County should ultimately come before this Legislature for approval and that's the intent of this bill and I'd be happy to answer any questions.

**CHAIRMAN SPENCER:**

Thank you. Legislator Kennedy.

**LEG. KENNEDY:**

We talk often about being open and transparent, this bill is for being open and transparency. My office has always encouraged people to respond and to question bills. I just got one up on the computer, another question, as of late I've been receiving a tremendous amount of questions on bills with fees from my constituency and from well beyond my constituency. I think it's important that the people know before they -- it's voted on and they find out. Everyone cannot get to the Legislature. I think it's important that we pass this bill for transparency.

**CHAIRMAN SPENCER:**

Thank you. Is there anyone here from the Health Department that can talk to this issue and anyone here from Administration? If you wouldn't mind coming up because I have a couple of questions, and also I'm going to ask Counsel, too.

So as I listen to the explanation of this particular bill and I look at the function of this Legislature and realizing that our role is to kind of administer the financing and to have some oversight over that, what are your -- do you have concerns with this? What are your thoughts as Commissioner? Because I always, with this committee, the Commissioner's voice weighs very heavily. So would you mind giving us your insight on this particular issue, Dr. Tomarken?

**COMMISSIONER TOMARKEN:**

Let me read you a statement that helps put the fees in perspective.

*So, "Pursuant to the Suffolk County Sanitary Code, the imposition of fees for the consideration of applications for the issuance of licenses approvals or permits must be consistent with the costs of these examinations and field inspections. The department cannot produce additional revenue through the raising of fees or fines. We must cover the work done by the department and not go beyond such costs. Please note that there are instances where the New York State Public Health Law has capped fines that may be imposed by the department."*

*"Further, case law has held that the fees that serve not as revenue taxes but rather as a means to meet the expenses incident to the administration of a regulation and to the maintenance of public order in the manner regulated are constitutionally permissible. Any increase of a fine or fee is done with careful consideration of the impact on Suffolk County businesses and residents. First and foremost is the public health and well-being of all our residents. It is necessary for the Commissioner of Health Services to maintain the responsibility of establishing and imposing a schedule of fees and fines as it relates to matters of health and sanitation in Suffolk County. Such fees and fines are critical to the health and safety of our residents and are imposed to cover the workload and encourage compliance with rules and regulations that protect our residents and the environment. The imposition of fees and fines is an administrative function that is best managed at the department level with input from our division directors who are responsible for daily operations."*

*"Furthermore, the department needs to retain its ability to make timely adjustments to certain fees and fines, if a public or environmental health issue warrants such action and not be held to the Legislative calendar. Most importantly, the Commissioner of Health Services must make these decisions independently with the guidance of those who work each day. Having to seek Legislative approval opens this process up to the influence of third parties that may have a special interest in how fees and fines are set. These interests have the potential to undermine the needs of the department and increase the risks of adverse public health and environmental incidence."*

*Just to the give you an example, "Since increases in fees and fines were included in the 2016 Proposed Operating Budget and discussed in the BRO report, the public had the opportunity to attend budget hearings and share any concerns. The department has not received any negative feedback from the business community or residents regarding any of these increases."*

**CHAIRMAN SPENCER:**

So when we talk about fees -- maybe this question is to Counsel. When we talk about a fee in Suffolk County, we're -- are we talking about a charge for a service and is that to be distinguished semantically from a fine, which is a punitive action for failure to follow a law. Are we talking fees and fines in this or is this strictly --

**MR. NOLAN:**

It talks about both, and fees are different from fines. Fees do have to be commensurate with the cost of the service that the County is providing, as the Commissioner just stated.

**CHAIRMAN SPENCER:**

Legislator Cilmi.

**LEG. CILMI:**

If I may weigh in. The statement that Dr. Tomarken read he could have been the Commissioner of any department in this County and he could have read the very same statement. We're not in business to make money here in Suffolk County, we're in business to provide services. Yet this Legislature has the responsibility and the authority to govern the types of fees and fines in most

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other places in the County that we hold our residents accountable for. In fact, the Police Department came to us recently and said to us, *We need to find a way to pay for the 97,000 false alarms that our police officers respond to every year*, and they asked this Legislature for authority to charge a registration fee for burglar alarms. Many members of this Legislature said yes to that and some members of this Legislature said no to that, but we had the authority to vote on that. And that's the way it should be with these -- with this set of fees and fines, regardless of whether or not they're -- you know, they're necessary to run a department. You know, many departments have fees and fines associated with them; Consumer Affairs Department is a great example, but that schedule of fees and fines is set by this Legislature, ultimately.

### **CHAIRMAN SPENCER:**

So I have a list. I was in the middle of a question to Counsel and then Tom -- so I'm going to finish my line of questioning, then Legislator Fleming and then Legislator Calarco.

So to Counsel and also to Dr. Tomarken. When we look at the Health Department, I understand the Health Department, there are portions of it that are under State mandate; there's a Sanitary Code and then there are portions that are County. The first question is are there fees that are regulated by the Board of Health?

### **COMMISSIONER TOMARKEN:**

Well, the Sanitary Code is regulated by the Board of Health, so the code -- the fees that are in the Sanitary Code would be regulated by the Board of Health.

### **CHAIRMAN SPENCER:**

Is there a distinction, to Counsel, between those fees that are prescribed by the Sanitary Code for the State and that have to go through the Board of Health? Would this legislation -- would this be appropriate in that situation?

### **MR. NOLAN:**

You're talking about the Board of Health?

### **CHAIRMAN SPENCER:**

Board of Health, the Sanitary Code.

### **MR. NOLAN:**

Right. As a Chartered County, the Attorney General has stated that we can -- the Legislature can pass a Charter Law which would require changes to the Sanitary Code to come before the County Legislature.

So if the Board of Health is voting to raise fees, we have the authority to say, *Before you impose those fees, they must come to the County Legislature for approval first.*

### **CHAIRMAN SPENCER:**

Dr. Tomarken, are there fees that are set by the State within the Health Department? That the State changes that we really --

### **COMMISSIONER TOMARKEN:**

Yeah, I'll get a definite answer. I think generally what happens is the State, for certain things, will set a limit.

### **CHAIRMAN SPENCER:**

Okay.

**COMMISSIONER TOMARKEN:**

An upper limit.

**CHAIRMAN SPENCER:**

So if I were to make the argument, and just as you're answering that, to say, all right, if you're continuing to do your function, what would be a situation where you would need to change the fee so rapidly that validation by this Legislature would create a hindrance or a difficulty? You know, what would be the harm in having the transparency in terms of the fee and having this Legislature validate them?

**MR. SORTINO:**

Well, first I wanted to comment on some of the fees are set by the State Sanitary Code such as the Children's Camp permit fee. So those fees we cannot change.

I'm not -- Dr. Tomarken, do you want to comment on the last question? Or --

**COMMISSIONER TOMARKEN:**

I don't think the urgency is the issue, I think it's a matter of whether it goes into the political arena or stays within the department. I think that's the issue. It's rare, I can't think of an example where we had -- there was an urgent need to change something. We change something basically because our costs go up and then we're trying to cover our costs. And as we've all said, we're not here to make money, we're just trying to cover our costs, and that's really the essence of what the fee changes are about.

**CHAIRMAN SPENCER:**

How often are fees changed typically, you know, to your knowledge, within the Health Department? Is this something that it's constantly happening, is it very rarely happening?

**MR. SORTINO:**

No.

**CHAIRMAN SPENCER:**

On an annual basis, are all the fees reassessed?

**MS. CAPOBIANCO:**

Christina Capobianco, Deputy Commissioner.

**CHAIRMAN SPENCER:**

Hi, Christina.

**MS. CAPOBIANCO:**

Hello, Dr. Spencer. So the fees in the Office of Wastewater Management and Pollution Control were last increased in 2009. There were some limited scope increases in 2011 and '13, but those were just for certain fees in wastewater and certain fines in pollution control. But overall, there's been no fee and fine increase since 2009 in the Division of Environmental Quality.

**CHAIRMAN SPENCER:**

Oh, you have more? Okay, thank you.

And to the sponsor of the bill. You know, I look at -- we look at legislation at -- one of the things I look for is the need, too, as being, you know -- all right. It seems that -- have you found there are circumstances or where it's a consistent complaint where it is a problem that fees are being changed kind of arbitrarily and have you seen examples of that? What was the Legislative -- what was the

impetus behind this legislation, was there a particular constituent or a problem that you've seen that we're -- that we're solving?

**LEG. CILMI:**

No, in this case there was no particular constituent that called my office to complain about increases in fees. The increases that I spoke of earlier that were instituted at the beginning of this year, many of them, I think, may be reasonable.

So, to me, it wasn't about any one specific fee, it was about asserting the independence of this Legislature and asserting the authority of this Legislature as the body that's responsible for budgetary oversight in Suffolk County. I mean, that's the plain and simple answer to your question. There was no precipitating event from a constituent point of view, it was my seeing the fee increases and a phone call to Counsel to say how could they raise fees without our -- without coming before the Legislature when every other fee that this County raises comes before the Legislature.

**CHAIRMAN SPENCER:**

Okay. That's fair enough.

And my last question and then I'll -- I don't have to yield I'm the Chair.

*(\*Laughter\*)*

But I'll -- to George. Is the Health Department different from other departments; Consumer Affairs or the fees that are -- what -- is it only in this department? And is this legislation only appropriate for the Department of Health?

**MR. NOLAN:**

You know, I can't -- I can't say whether there's any other department that raises fees without coming to the Legislature. It does seem that, you know, most fees, when they're increased, they do come to us for a vote. The Health Department, I don't know how it evolved exactly that they set their own fees. Maybe possibly because, to some degree, they're almost an agent of the State and, you know, they have to administer the Sanitary Code, the State law gives them that responsibility, so that's a possibility. But why this particular department has not brought the fee increases to see us historically, I really couldn't give you an answer.

**CHAIRMAN SPENCER:**

Could you give me an answer?

**COMMISSIONER TOMARKEN:**

No, I think that's about as best as any of us can give at the time.

**CHAIRMAN SPENCER:**

Okay.

**COMMISSIONER TOMARKEN:**

I wasn't around when it was developed. I don't know what the thinking is. I think, to some extent, the fact that there is a separate code, like the Sanitary Code, it's a way for the State to mandate what it wants the counties to do, and inclusive in that would be that it's setting fees and fines within limitations, etcetera.

So although -- obviously there are other departments, I don't think they have like a Sanitary Code like we have that we're bound by. So I think the analogy between us and other departments is limited and I think if other departments; the police or whoever, had a code that they had to live by

that was administered by the State, they might be implementing their fees and fines a bit differently.

**CHAIRMAN SPENCER:**

Thank you. Legislator Fleming.

**LEG. FLEMING:**

Thank you, Mr. Chairman. Just in response to the question about -- I think, Tom, you said that this -- that Dr. Tomarken could have been speaking from any department. But I think in the memo you provided to us, and part of which you just read, you do say that you want to retain your ability to make timely adjustments to fees and fines if a public or environmental health issue warrants that such action be taken and that you not have to be held to the Legislative schedule with regard to that. I know I've been working closely with the Health Department's Wastewater Division and, you know, have found them incredibly responsive and responsible, although, understaffed from my perspective. So I can certainly appreciate that, especially with regard to water quality and the issues that they have to pursue, you know, a certain amount of decision making ability is warranted without having to be -- be sort of a slave to the Legislative schedule. I mean, if we don't have a reason to find it problematic right now, I'm sort of the mind of if it's not broken don't fix it, particularly when it comes to our public health. So that I do think is a bit of a distinction.

**LEG. CILMI:**

The -- if I may, through the Chair?

**CHAIRMAN SPENCER:**

Absolutely.

**LEG. CILMI:**

The good Doctor also said that he can't remember a time when there was an emergency and he can't envision a time where there may be such an emergency. This Legislature meets regularly throughout the -- throughout the year, you know, what, 18 times a year or so; so one and-a-half times a month on average, roughly? There's absolutely -- there's nothing that I can think of that would happen that would cause them to need to raise a fee or a fine in Suffolk County that would be that emergent that they couldn't wait for the next Legislative meeting for that to happen. I mean -- yes, Dr. Tomarken, go ahead.

**COMMISSIONER TOMARKEN:**

Let me just give you one example. With Superstorm Sandy, we were able to waive fees for building permits --

**LEG. CILMI:**

Sure.

**COMMISSIONER TOMARKEN:**

-- for people immediately when they were going to just rebuild their facility as it was previous, so we were able to do that.

**LEG. CILMI:**

And this wouldn't preclude you from doing that. There are certain states of emergency and certain declarations that the County Executive can make that would allow you to do whatever it was you needed to do to respond to an emergency. So that would not change based on this resolution.

**LEG. FLEMING:**

What about, for instance, monitoring -- water monitoring and testing? I know we've asked -- in my district, we've put some demands on the department to do some additional monitoring and testing, certainly around sand mines. And I know the lab is short-staffed and, you know, has certain obligations with regard to pesticide testing and, you know, there's other testing that they need to do as well even though they've got, you know, State mandates, as you know, to do the pesticide testing.

So I'm just wondering if that's an area where your ability to set your fees might be helpful if there's additional demands or if you find that folks are impacting water quality with their conduct in a way that you feel it's appropriate to public health to act and that you need to cover your administrative costs in a situation like that.

**COMMISSIONER TOMARKEN:**

There are situations where we might need immediate funds or to increase fees strictly in the area of covering our costs, if somebody got -- was from the lab, for instance, or one of our drillers couldn't work and we had to hire somebody part-time, things like that could happen. But again, I think the overall concept is this is a -- this doesn't happen frequently, the amounts that go up are small and they're, again, just there to cover our costs. We're not -- as we've said many times, we're not there to make any money.

And the other thing is that someone -- people should realize when people come in for a fine, for instance, it's often negotiated. You know, the fine is X and then they come in and say, *Well, we'll sign a stipulation, we'll do X in a certain period of time*, and then we say, *Okay, as a result of that, the fine dropped in half or eliminated*. So it's -- there is plenty of room for negotiation. And our job is not to put anybody out of business, that is the last -- that is just not on our agenda. Our agenda is to cover our cost. And as we know, the cost of staff and cost of the equipment continues to go up and this is just a tool that -- and it's used so infrequently that -- and the amounts that it generates are not huge amounts, so.

**LEG. CILMI:**

If I may, Mr. Chair. So if it is used so infrequently, Doctor, then why would you be so opposed to the Legislature authorizing these fee increases? I mean, I understand you're basically relinquishing some authority that you have now, and I'm not surprised that you would fight against that. But the fact remains is that literally every other department is facing the same fiscal challenges, the same increases in costs, the same issues that you're facing, many of which have the same environmental, if you will -- not in the traditional sense of the word but in the global sense of the word -- environmental impacts that your department is dealing with. And yet all of those departments have to come to us for approval and make their case, basically, is all it amounts to. It amounts to explaining to us why the fee increase is necessary and, by and large, if there's -- you know, if there's good reason and if it's not exorbitant, then this Legislature approves those types of things.

We've even gone so far as to budget for fee increases prior to authorizing those fee increases. In fact, the alarm management fee that I talked about a little bit earlier was put into the budget prior to this body voting on the -- on that fee. So it's like we counted on it before we even enacted it and yet we went ahead and enacted it afterwards.

So I still -- I appreciate why you would fight against this in your position, but I still haven't heard any good reason to oppose this.

**CHAIRMAN SPENCER:**

Quick question to the sponsor. You did a similar bill in 2012 and I noticed this -- that particular bill was IR 1708 and it was a Charter Law to require legislative approval of fee changes. In that particular legislation you had particularly carved out a state of emergency, but this one doesn't do that. Was there any reason? And to Counsel, if it was carved out when it was crafted in the past, how come there's no exemption in the new one for emergencies? Has something changed or it was explicitly stated when it was done.

**MR. NOLAN:**

Actually, I can say there is no reason why it was in one bill and not this one. If -- it's probably just an oversight on our part, on my part, not putting that in. We never discussed putting that language in the bill.

**LEG. CILMI:**

But I don't think it's necessary.

**MR. NOLAN:**

Yeah, I think -- well, I think under New York Executive Law, if the County Executive declares an emergency, he has the ability to say that, you know, certain laws during the state of emergency will not be enforced or followed. And probably under that authority, then, he could say to the Department of Health, *You know what? Don't charge any fees during the length of this emergency.* But, you know, I would just say, there is no particular reason why it's not in this bill.

**CHAIRMAN SPENCER:**

And then the other bill, to the sponsor, it actually covered all -- kind of all fee changes and this one seems to -- it doesn't have the exemptions and this one seems to be very, you know, specific to the Health Department. I like your other bill better (*laughter*). I probably would have supported --

**LEG. CILMI:**

Well, then everyone should have supported that other bill. But the fact is is that I asked Counsel when I filed this bill if we should include or if he knew of any other department in the County that doesn't have -- doesn't require us to approve those fee increases and he couldn't think of any.

**CHAIRMAN SPENCER:**

Tom, I did support it.

*(\*Laughter\*)*

**LEG. CILMI:**

Very good. Well, the whole body should have -- the whole body -- the whole body should have. I appreciate that, and you should support this as well, then, frankly.

**CHAIRMAN SPENCER:**

This is different, Tom (*laughter*).

**LEG. CILMI:**

It's not different. It's not different.

**CHAIRMAN SPENCER:**

Legislator Calarco.

**D.P.O. CALARCO:**

Thank you, Doc. I think some of my point has gotten through.

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Dr. Tomarken, since this bill only deals with the Sanitary Code, the Sanitary Code is something we're empowered and actually directed to do under State law?

**COMMISSIONER TOMARKEN:**

Yes.

**D.P.O. CALARCO:**

And in acting in that capacity, you are actually acting as a State agent?

**COMMISSIONER TOMARKEN:**

Yes.

**D.P.O. CALARCO:**

So at the end of the day, the way we derive that law is because it comes through the SPDES permit in terms of wastewater or water disposal to the State DEC; is that the way it works? If I understand correctly, we are the -- we are the SPDES permit holder for all wastewater treatment plants and disposal systems?

**COMMISSIONER TOMARKEN:**

Before I answer I just want to verify that.

**MR. DAWYDIAK:**

Good afternoon. Walter Dawydiak, Director of Environmental Quality. The answer is yes and no; we do have delegated SPDES authority, but our primary underlying water and sewage disposal authority comes from the Public Health Law which is a State Health Department animal.

**D.P.O. CALARCO:**

Nonetheless, we have no choice in the matter but to do this.

**COMMISSIONER TOMARKEN:**

Yeah, we've either been mandated to do it or we've agreed to do it.

**D.P.O. CALARCO:**

As a State mandate.

**COMMISSIONER TOMARKEN:**

Right.

**D.P.O. CALARCO:**

Okay. So does the State give us any money for this?

**COMMISSIONER TOMARKEN:**

For various projects, but not just to enforce the code or to administer the code.

**D.P.O. CALARCO:**

Well, for any of the things that these fees are associated with, do they give us any money to administer those programs?

**MR. DAWYDIAK:**

Legislator Calarco, yes, we have a very complicated budget. There is a series of grants that come in from both the State Health Department as well as the State DEC to support our budget, and those come into play when setting fees and fines which cannot result in excess revenues. So those need to be taken off the top, so to speak.

**D.P.O. CALARCO:**

Okay. So when we get a grant, that's not necessarily a guaranteed funding stream, but it's a -- we get grants occasionally to pay for different programs?

**MR. DAWYDIAK:**

Yeah, there's two different types of funding. Some of them are grants, like the Pesticide Grant, the Enhancement Grant; those are guaranteed, they're a fixed sum per year. There's also a 36% Article 6 State Aid Reimbursement for unreimbursed expenses on top of that and that's a function of how much we spent.

**D.P.O. CALARCO:**

Okay. So we get some money to do these programs, and then what we're talking about with these fees is they help offset the rest of that -- that cost.

**COMMISSIONER TOMARKEN:**

Yes.

**D.P.O. CALARCO:**

Do they pay for the whole program? The fee structure.

**COMMISSIONER TOMARKEN:**

*(Shook head no.)*

**D.P.O. CALARCO:**

No. Is it close? Budget Review is looking at me and shaking his head.

**MR. FREAS:**

No *(laughter)*.

**D.P.O. CALARCO:**

So in essence what, you're doing is trying to at least -- at least recoup some cost for the processing of the applications, I'm guessing.

**COMMISSIONER TOMARKEN:**

Correct.

**D.P.O. CALARCO:**

Okay. And this goes to the Board of Health for a review, so there is a public process not only through our budget process, but the Board of Health is a public process as well.

**COMMISSIONER TOMARKEN:**

Yes.

**D.P.O. CALARCO:**

So the public has an opportunity to speak out about these.

**COMMISSIONER TOMARKEN:**

Yes.

**D.P.O. CALARCO:**

Well, at a couple of different points in time.

**COMMISSIONER TOMARKEN:**

Yes.

**D.P.O. CALARCO:**

When they -- if they disagree with the fees.

So it sounds to me like we have a structure in place and it sounds to me like we're doing something the State has mandated us to do and that they have requirement's in place that would limit your ability to raise these fees to make sure they stay reasonable and the fact that we are -- now we're close to recouping our full cost, I would say we're more than within reasonable. And I don't understand, while the sponsor says he hasn't heard any reason not to do this, quite honestly, I haven't heard any reason that -- why we have to do this. And it sounds to me as if the Health Department is acting under their State authority and they're doing so in a very responsible and reasonable manner. And just given the fact that there hasn't been a complaint directly lodged with any of us, I know I haven't heard from anybody complaining about it, I would imagine that they are acting in a pretty responsible manner. Because I certainly get a lot of complaints about the Health Department, their fee structure is one I haven't gotten.

**LEG. CILMI:**

So --

**MS. CAPOBIANCO:**

Can I -- excuse me.

**LEG. CILMI:**

If I may, Mr. Chair? I'm sorry, Christina. Go ahead, if you want to add something.

**MS. CAPOBIANCO:**

Let me just clarify one thing. The Board of Health isn't voting explicitly on each fee and fine increase. Their authority is on -- with the Sanitary Code, which authorizes the Health Commissioner to impose fees and fines.

**LEG. CILMI:**

So the restatement by Legislator Calarco is not accurate then.

**MS. CAPOBIANCO:**

No, not -- it is somewhat accurate in that, in this case, the fees and fines that we adopted in 2016 were included in our 2016 Operating Budget request. They were vetted by both Budget offices, they were -- a synopsis was written up in the BRO report and we did have a public hearing on our Operating Budget, on Health's Operating Budget specifically, and we did not receive any questions from the public. Since the fees have been imposed in 2016, there has been no public complaints made, as Legislator Calarco just stated.

**LEG. CILMI:**

So we put lots of things in budgets that nobody sees and no one ever hears about until it's too late and then -- you know, and then we get complaints. While it may be true that I have not received any specific complaints associated with the list of increases that your department made at the beginning of this year, I get complaints about some of the charges here in Suffolk County, whether it be applications for this permit or that permit or fines associated with this or that. I get complaints about those things -- types of things all the time and I hear constantly from businesses who have to pay a variety of different fees for a variety of different things that are difficult for them to manage in the course of business. The fees and fines that we're talking about here, that you have the opportunity to increase, span both residential and commercial realms.

Legislator Calarco, the argument you make about mandates is just -- it's incongruent and it doesn't make any sense, frankly. The fact of the matter is that we complain about State mandates all the time here. They're mandates because the State says, *You must do these things*. The State doesn't say we must raise our fees, in most of these cases. And there have been many times where somebody -- where the Administration has come to this Legislature and said, *We have to raise this fee because the State's telling us we have to raise this fee*. And it still comes to the Legislature for approval, and we always say, *Okay*. Well, *if the State's telling we have to do it, then we have to do it*. In this case, the State's not telling us that we have to do this and yet they have the authority to do it.

Now, I don't know about you, but when we have an opportunity to sort of fight back against State mandates, I want to take that opportunity. And I don't even view this as a State mandate, you're the one who mentioned that, but if we have an opportunity to say to the State, *Look, yeah, you're requiring us to do these certain things, but, you know, the cost associated with doing that is going to be -- is going to be problematic for our residents or our businesses*, then we have the -- we should have the authority to say yes or no.

You know, if a vote against this bill or a vote to table this bill is, very simply put, a vote against transparency, a vote against oversight and a vote against the independence of this body and it would be the wrong vote for this body to take. And so I would encourage the withdrawal of the tabling motion and I would encourage your support for this bill. I would make it a point to state that Legislator Bill Lindsay is a cosponsor of this bill. And he is a cosponsor of this bill, and he can certainly speak for himself, but when I reached out to him to see if he wanted to cosponsor this bill, one of the reasons that I did that was because his father, may he rest in peace, was a staunch advocate for the independence of this body and for the equal representation of this body in terms of our oversight of the budget here in Suffolk County. Support this bill, it's the right thing to do.

**CHAIRMAN SPENCER:**  
Legislator Calarco.

**D.P.O. CALARCO:**  
Just to respond. And I can appreciate and I value Legislator Lindsay's opinion, and certainly just because he's in the Democratic caucus doesn't mean he has all the same opinions as the rest of us or as I do.

**LEG. CILMI:**  
I didn't say he did.

**D.P.O. CALARCO:**  
It is a mandate by the State to do this. And so what you are talking about is whether or not we are going to spread the cost of this program to all of the property taxes that we collect. Because if we're not going to do it through the fee structure that makes sure the people who are benefitting or applying for the program or getting application into for whatever purposes, you know, a user fee, then we're going to put it into property taxes. And the issue that we face in this County is that we know that our residents are very highly taxed and they can't afford higher property taxes, even if the County portion is just a fraction of the overall bill. And so that is what it ends up being. If we don't allow the Health Department to, you know, do their job and exercise their authority, as granted by the State, to manage this program in a responsible manner, and we start taking it in-house and making it a political piñata, which is what we're doing here right now today, then that's going to make it into a situation where it's going to cost the taxpayers more and more money through property taxes, because we won't have the money coming into through the fees so the users are offsetting their costs.

**LEG. CILMI:**

You're argument is based on -- is based on the assumption that this body wouldn't approve a request for fee increases, and that would be the -- that would be the time and the place for you to make the argument that you're making and it would be a good time and place for it. Now is not the time and place to make that argument. If the Health Department came to us and said, *Look, we're required by New York State to ensure that the integrity of our public water supply is, you know, intact or that the -- you know, that certain waterways are free from contaminants or whatever, and in order to do that effectively, we need to raise fees by X amount of money.* If they came to us and said that, that would be an appropriate place to make that argument and we would be loathe to say no at that point.

**D.P.O. CALARCO:**

My point, Legislator, is that --

**LEG. CILMI:**

We're required to provide public safety to the residents of Suffolk County and yet we still have to approve a budget every year that appropriates money for that.

**D.P.O. CALARCO:**

Actually, we're not required to provide police services. There was a point in time in this County's history where we didn't provide the overall police services, the towns provided that function. We have, in some instances, where we are given the authority to do things and in some instances where we're mandated.

You made the point that this is required or it should be done because this is the only time in the County where we don't -- where we don't have this, where we don't have it come to this body. And quite honestly, this is one of the very few things that we have fees attached to that we have no discretion over; we must provide this function by State requirement. Pretty much everything that happens within the Parks Department, last I checked, is our discretion. We do that if we want to do it and the fees attached to it are the ones we attach to it. Even 90% of what we do in Consumer Affairs are going to be functions that we have voluntarily decided that we are going to provide regulation over and not instances where the State has told us we must do these functions.

So I would say that there is a big difference in this instance as opposed to all those others. And that's my point of bringing up the State and the fact that we're doing this under their authority, and I think that our Commissioner and the Board of Health has shown quite a bit of restraint in making sure that the fees are reasonable and responsible.

**LEG. CILMI:**

So you're content leaving the authority to raise fees and fines and to levy fees and fines to the Administration and abdicating our oversight of those fees and fines.

**D.P.O. CALARCO:**

We have oversight, we just voted on this in the budget. And while we may say some people don't pay attention, I sat on the Work Group, I paid attention to everything happening in the budget.

**LEG. CILMI:**

The fact remains -- you know, this is a -- this is a circular argument. The fact remains is that while New York State may say to us that we must do these certain things, they don't say to us what we have to charge to do these certain things, and this body should have the authority to approve those types of fees.

I'll leave it at that. And I ask respectfully for all of your support.

**CHAIRMAN SPENCER:**

Legislator Fleming?

**LEG. FLEMING:**

Just super quickly. You know, the State doesn't say what we have to charge, but if the State tells us we have to do something, there will be costs attached and those are the costs that the folks at the table want to be able to charge in order to support their functions.

**CHAIRMAN SPENCER:**

Legislator Martinez.

**LEG. MARTINEZ:**

Good afternoon, Doctor. Quick question. I know we're all discussing transparency and open government and things of that nature, and though both sides have valid points. You said that when you increase the fees, you're doing it based on the need at that moment in time. And I know that's during public hearings are also held, but how do you actually notify individuals, one, of the public hearings; and two, once the public hearings are over and done with, how do you notify those who now have to pay these fines?

**COMMISSIONER TOMARKEN:**

Generally we have a very confined industry that these fines and fees apply to and we generally notify them through their -- their representatives, and we generally publish them on our website.

**LEG. MARTINEZ:**

Okay, but the average person who wouldn't perhaps go onto the website and check it out.

**MS. CAPOBIANCO:**

Legislator Martinez, if I could answer your question. For the fees related to the Bureau of Public Health Protection, a blast e-mail was sent out. We have a database of all the restaurants and an e-mail was sent out advising them of the fee changes before they took effect. And for the fees in the Division of Environmental Quality, we typically send out a fee notice to our industry contacts and the fee notices go out with their renewal notices, because many of the permits are subject to renewal.

**LEG. MARTINEZ:**

And when these go out to all businesses, I'm assuming they're throughout the entire County; correct?

**MS. CAPOBIANCO:**

Correct.

**LEG. MARTINEZ:**

So let's say, for example, let's take my district, for example. If they're receiving this e-mail and they may not be able to read English or, you know, are they translated in any way?

**MS. CAPOBIANCO:**

Well, I'm going to ask Chris Sortino, our Bureau Chief, to answer that question. I know when we give the food manager courses, they're given in English, Spanish and Chinese.

**MR. SORTINO:**

The notices only went out in English.

**LEG. MARTINEZ:**

Thank you.

**CHAIRMAN SPENCER:**

Thank you. So that's all the speakers that I have. So we have a motion to table and a motion to approve. The tabling motion takes precedence, so we're going to call that vote at this time. All those in favor? Any in opposition to the tabling?

**LEG. CILMI:**

Opposed.

**MR. NOLAN:**

Let's see the hands for tabling.

**CHAIRMAN SPENCER:**

Hands for opposed.

**LEG. CILMI:**

Opposed to table.

*(\*Legislators Kennedy & Trotta Raised their hands in opposition\*)*

**LEG. TROTTA:**

The Republicans *(laughter)*.

**CHAIRMAN SPENCER:**

So it looks like the tabling motion is carried. The Presiding Officer is voting on this.

***Tabled (VOTE: 5-3-0-0 - Opposed: Legislators Cilmi, Trotta & Kennedy).***

So that's all we have on the agenda. Is there any other business that is outstanding? With that, we are adjourned. Thank you.

***(\*The meeting was adjourned at 4:21 p.m. \*)***

**{ } DENOTES SPELLED PHONETICALLY**