

PUBLIC WORKS

AND

PUBLIC TRANSPORTATION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

A regular meeting of the Public Works and Public Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Tuesday, December 13, 2005.

MEMBERS PRESENT:

Legislator Allan Binder • Chairman

Legislator Angie Carpenter

Legislator John Kennedy

Legislator Brian Foley

Legislator Ricardo Montano

MEMBER NOT PRESENT:

Legislator Peter O'Leary • Excused Absence

ALSO IN ATTENDANCE:

Mea Knapp • Counsel to the Legislature

Ian Barry • Assistant Counsel to the Legislature

Gail Vizzini • Budget Review Office

Kevin Duffy • Budget Review Office

Charles Bartha • Commissioner • DPW

Ben Wright • DPW

Leslie Mitchel • Deputy Commissioner • DPW

Alexandra Sullivan • Chief Deputy Clerk • Legislature

Bill Faulk • Aide to P.O. Caracappa

Ben Zwirn • County Exec's Office

Lynne Bizzarro • County Attorney's Office

Ed ODriscoll

All Other Interested Parties

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 1:38 P.M. *)

CHAIRMAN BINDER:

All rise for the Pledge of Allegiance led by Legislator Viloría•Fisher.

SALUTATION

CHAIRMAN BINDER:

We have the Public Works and Public Transportation Committee. We are one short of a way •• we weren't •• we were one shot •• we are not short of a quorum, I was going to say. All right. Let me ask Mr. Ed ODriscoll to come up, and then we will go right to the agenda. Just sit down by one of the microphones. State your name and let us know what you're here for.

MR. ODRISCOLL:

Edward ODriscoll, I live in West Islip. And I'm here today to find out what's going on with my claim I made with the County for sewer damage that was done to my house during the storms •• during the eight days of rain in October.

CHAIRMAN BINDER:

I can't answer that question.

LEG. VILORIA•FISHER:

It's on the agenda.

MR. ODRISCOLL:

That seems to be the answer I'm getting since October, and quite frankly, I'm tired of it.

LEG. CARPENTER:

Mr. ODriscoll did stop in my office, and we made a number of phone calls. And there was a •• the Division of Audit and Control, I guess, they were trying to verify some of the estimates on the damage, but they would not release the numbers until the resolution was approved at the Legislature. And it's my understanding that the resolution, and I don't •• the number escapes me right now.

LEG. VILORIA • FISHER:

It's 2355, it's on the agenda.

LEG. CARPENTER:

Right. It's on the agenda today. As I told you that •• you know, unless we had a CN for it at the last meeting, the resolution would be on the committee agenda today. If it hopefully is approved here today, it will go to the full meeting of the Legislature on Tuesday, approved there, and then they can move forward. So that's basically what's happening.

MR. ODRISCOLL:

Today is 60 days from the day it stopped raining. Okay? Since I got •• the week of Halloween, someone from DPW came to my house and stated to me that that is a sewer backup, that's our problem. So from the end of October to today, I've made a countless number phone calls to DPW, to Risk Management, to the County Executive's Office. And I've gotten answers from, I'm sorry, sir, we have an 1100 homes affected to 400 homes affected, to 300, to under 300 homes affected, no one seems to care what is going on. One of the women who answered the phone at DPW stated to me, well, you're lucky you don't live in Nassau, because they're not getting any money. Well, frankly, neither am I, because I haven't received a dime yet.

I have a couple of pictures of how my house looks right now, it is gutted from floor to ceiling. All I have left is studs and concrete slab. That's my living space, it is not my basement. I have a high ranch, I had a kitchen, I had a bathroom downstairs, both legal, both ripped out. My boiler runs 13 hours a day. My house is dry. You can hang salami in it to dry. I'm just getting tired of getting no answers. No one is telling me how much money I'm getting, when I'm getting it and by who I'm getting it.

I can't •• I don't even want to bring people into my home to give me an estimate on the work done, because what do I tell them? Now I'm at the point, the holidays are coming, I have to do something. So I'm at the point now where I'm going to use my own money just to start the problem, but that wasn't told to me. I would never have agreed for this cleaning crew to come in to rip out my house if I had known in almost two months that I'd have to use my money to repair it.

As far as I'm concerned this is a disgrace. This is not my style. I didn't want to be here today, I'm not a letter writer, I don't like to make phone calls, but frankly, my hands are tied. And for me to be told that this has to be voted on by you folks 60 days after the fact, we're dealing with Suffolk County

here, we're not dealing with Mom and Pop Soda Shop up the road where this is an overwhelming factor. How could Suffolk County drag out, I'll say, 60 days after the rain, I'll go 40 days after the gentleman came to my house, how could a county like Suffolk not be prepared for something like this. So now if this gets voted today, then I have to wait to next Tuesday, now what, January, February? This is a disgrace, and I'm here today to find some answers.

CHAIRMAN BINDER.

Legislator Carpenter.

LEG. CARPENTER:

If I could, Mr. ODriscoll, as you know, I certainly can emphasize with you, it's got to be a very, very frustrating situation. I'm sure that in the scheme of things, 60 days seems like an eternity to you and your family, but I will say to characterize that fact no one in Suffolk County cares is a little bit unfair, because I know the people in the department have been working very hard, but there are certain rules and regulations that as a government we are required to follow in the scheme of things that the Mom and Pop operation would be able to, like, cut you a check and that would be all. But in this time of increased scrutiny and a call by the public for increased transparency and every "i" has to be dotted, every "t" crossed. And I know the County Exec's rep is here. Mr. Zwirn, did you want to come forward? I know that after you had come to my office I did call, spoke with Chief Deputy County Executive Kevin Law and asked they do to everything humanly possible to expedite this. So I know the County Executive's Office in conjunction with the County •• with the Department of Public Works has really been trying to do their best. And I know it doesn't help you in your personal situation, but we are trying. Mr. Zwirn.

MR. ZWIRN:

Thank you very much, Legislator Carpenter. And to echo your comments, everything you said is absolutely true. And I know it seems like forever because you're not getting answers that you want as quickly as you want. But the legislation is on today, the County is not quarreling about responsibility or, you know, liability with this, they accept responsibility, they know it's their fault. We're hoping •• Leslie Baffa was asked to come today to talk about this particularly, but let me turn it over to Ben Wright from Public Works so he can tell us where we are today.

MR. WRIGHT:

A couple of issues that have extended this time period of time of response; one had to do with the development with the County Attorney's Office of an affidavit, because there was some concern on homeowners receiving homeowners insurance, and we had to ensure that there was not a double payment for something like that, or we're able to recover costs from third parties. So that's something that was developed. But at this time of the year, the funds that are available in the Sewer District Number 3 budget are, you know, at a low point, because it's end of the year. And whatever was available had been transferred to take care of some of these problems. We've already spent over a million dollars on cleaning and sanitizing rather than the restoration part.

The process that Insurance and Risk will follow is to have the appraisal made and then a release form signed with the affidavit and then a payment made on the basis of that appraisal. But that can't happen until the funds are put back in the budget, which is the resolution you discussed earlier.

MR. ODRISCOLL:

Like Ms. Carpenter had said, you guys have to dot your "i"s and cross your "t"s. I'm not looking for any miraculous thing here, but it's kind of funny that the cleanup crew was in my house almost ten days after I made my initial phone call to rip out my mold •• I had already tore out my carpet •• to rip out Sheetrock. It seems that that was done very quickly so that there's no liability on the County or the Department of Public Works for people getting sick for whatever reason. And now why was that done so quick? I'm sure those folks have gotten paid, because they guy who ripped my house said he's doing over 200 himself. And I doubt a businessman is going to wait 60 days to get paid whatever he's charging, which I'm sure is a pretty penny, for a couple hundred homes.

MR. WRIGHT:

That's the million dollars I'm referring to that's been paid for cleaning and sanitizing, it's not ••

MR. ODRISCOLL:

He got his money quick.

MR. WRIGHT:

Well, Ms. Baffa is here now. She might be able to shed some light on who got paid how much.

MS. BAFFA:

Yes.

MR. ODRISCOLL:

I don't care who got paid and how much they got paid. They don't concern me.

MR. WRIGHT:

Well, the early response was really to minimize mold infestation and nuisances and sickness.

MR. ODRISCOLL:

Take a look at my nuisance, sir, and tell me what's minimized with my photos here.

MR. WRIGHT:

I know it probably looks like a terrible situation, but as you said, it's dry. That was one of our immediate responses to make sure it's dry so that things •• • mold wouldn't be a problem.

CHAIRMAN BINDER:

Let me see if I can take this back. It's a very difficult situation that you're in. I know you do want answers, but you have to •• you have to understand, and I'm not one who's known •• Ben is sitting there to your right •• I'm not the guy who goes out there and defends the administration all the time or the

County or anything else. But at the same time, you're dealing with the government. There's not someone in some office somewhere who has a checkbook who can sit down and just write checks because you need a check, you need to be taken care of. You can't compare yourself with a contractor who has a regular contract with the County to do whatever they do and however they do it. We have a financial relationship with them.

With you there's a whole different set of circumstances. You heard Mr. Wright talk about a question of not overlapping, third part remuneration for what's happening. There are legal niceties you may not be happy with, but there are legal things that we have to go through and hoops that we have to jump through before someone is allowed to put pen to paper and write you a check, one of which happens to be that there has to be money in the fund to pay you. They cannot write you •• and I know, it's a two and a half, almost \$3 billion industry, this County, plenty of money here, except for the fact that the way it's structured, that each piece has its own little piece. Everyone's got its own, everyone's got budget lines, and it all breaks down.

And for someone to write you a check, there has to be money in an account to write you a check. It's just like if you had five checking accounts and one of them was almost empty, but you needed to write a big check and you wanted to write it from that account, so you would have to transfer money in. That's what we are about to do. We can't just transfer money.

So we're going to transfer money, we're going to do that today, we're going to create the ability for us to pay you. All the mechanisms are happening. I can tell you something, I've been doing this 16 years, this is my last •• one of my last committee meetings in 16 years as a Legislator, I'm actually surprised to hear that in 60 days you are this close to getting money. I'm surprised, because I know dealing with government is almost an impossibility. You're very close to it happening.

This committee is going to act today. This committee is going to, I am absolutely certain, pass the transfer. On Tuesday we're going to pass it again. When that happens, all the mechanisms will, I'm sure, go forward. As long as all the "t"s are crossed and all the "i"s are dotted •• I even hear it on the record, the County has admitted liability.

Please don't complain that the County ran in and minimized the damage, it's not because we're minimizing our liability, it's because there is an increased risk to you, human life, to health. We can't put you or anyone else at risk, so we had to run in and do the work that to be done. They had to rip this out, they had to try to dry it up, they had to minimize any health risk. That's part of our job, we have to do that. That's why they ran in so quick.

Now we're going through all of the legal loopholes that a government has to do before it writes an individual like you a check. But on the record, you are hearing we're liable, we're going to pay you, today the money is before the Legislature to transfer into account to make that payment to you. We're really on the precipice. And I can tell you, I'm astonished that it's all worked this quick, and in 60 days you are talking about being able to get your money. That is actually probably for government to move •• it's like grabbing a huge ship by a rope and trying to pull and thinking that it's just going to •• oh, it should just come, you know, we're in the same water so it should just come with me. No. You can pull and pull and pull. Remember it's a huge •• this is a huge industry that we are running here. It's set up in a way it doesn't make it easy to just write checks to people even if you feel that that's justice and that's fairness.

We will do everything we can to get through those loopholes. I think everyone at that table is ready to do everything they need to do to get you

the money as quickly as possible. Whatever the shortest amount of time is to get the money in your hands, this government I can already tell you •• I can see it, it's committed to getting that to you. So I know you have to hold your breath. It's frustrating, it stinks that it happened, it obviously does. No one would want to be in your situation. No one would want to be in your place.

I can tell, you're not even living well. I couldn't even see the pictures, but I can hear it in your voice. And it's an awful position to be in, but it seems to me just from what I'm hearing here that the agony is going to be over pretty soon. We're going to get you a check, you're going to be able to know how much you got, and we're going to make sure everything is at least as right as it could be with government.

So don't •• don't think that I'm not empathizing, I am. It sounds awful what you're going through. But I think everyone is committed here to making sure you get what you need as quickly as government can deliver that.

MS. BAFFA:

You really took all my good stuff. I'm Leslie Baffa from Risk management. At this point, another thing we had to wait for was all the independent appraisers to come in. Obviously they were swamped too. So they need to do their calculations. Also, we needed •• we needed to get the independent appraiser in, also from Bergen Point, what's called a Form 555, where the homeowner actually says this is what I feel my damage is, these are my pictures, this is what my inventory is.

CHAIRMAN BINDER:

Legally we have to do this?

MS. BAFFA:

Yes.

CHAIRMAN BINDER:

Right. So the point is there are a number of legal loopholes. You just heard appraisal, you heard checking to see if there's another third party payer and we're not overlapping. And I don't even know what the list is. There's got to be a government punch list of things we have to do before we're allowed to write you that check, and I assume there's more than I'm even hearing here today that you had to go through.

MS. BAFFA:

And basically while we're waiting for the funding, it wouldn't be appropriate, I don't think, to send out a settlement offer to some people and not others, especially when we don't even know if the funding was there to begin with.

CHAIRMAN BINDER:

And that's what we're going to try to provide today.

LEG. CARPENTER:

Mr. Chairman, I would like to make a motion to take 2355 out of order and at the very least try to expedite today's encounter for Mr. ODriscoll.

MR. ODRISCOLL:

Can I just say a couple of things?

CHAIRMAN BINDER:

Sure, Mr. ODriscoll. I'm going to have a motion by Legislator Carpenter to take out of order 2355, seconded by Legislator Viloría•Fisher. If you wanted to make another comment.

MR. ODRISCOLL:

Please. The fact you are impressed about 60 days and everything's ready to go, you are not affected by this. Sixty days might as well be six years for me, okay? I understand all the things you have to go through, they have to go through, but this stuff can't be expedited?

CHAIRMAN BINDER:

It actually sounds like it is.

MR. ODRISCOLL:

To make my life easier.

LEG. BINDER:

That's the question.

MR. ODRISCOLL:

Hold it, please. I know family and I know friends who have got flood insurance who were affected by sewage, they were just affected by the flood waters, who have gotten paid by their flood insurance already. So I think FEMA is a little bit overwhelmed, more overwhelmed then this County is, and they got paid already. So how are you satisfied with a 60 day that everything is moving right along?

CHAIRMAN BINDER:

Most likely the flood insurance is private insurance.

MR. ODRISCOLL:

It's directed through FEMA, am I correct?

CHAIRMAN BINDER:

I don't know if it is FEMA.

MR. ODRISCOLL:

It is. I've done •• believe me. I've been up and down this whole thing. I've met with my insurance guy. Flood insurance is through FEMA and they just put a middle man, a private •• you get paid by FEMA. And I think FEMA has their hands full more than Suffolk County does right now, and these people are paid. So I'm not buying the fact that you're impressed that in 60 days the ball is rolling. I think it's a crock of you know what, and I'm waiting to hear ••

CHAIRMAN BINDER:

Well, that's it.

LEG. VILORIA • FISHER:

Let's move forward with this.

MR. ODRISCOLL:

Yeah, well, I have something to say, ma'am, I'm sorry. I was told this is a public forum, and I'm voicing my opinion.

LEG. VILORIA • FISHER:

It is, sir, and I respect that. And I know that it's particularly hard to have your home ••

MR. ODRISCOLL:

Well, you're cutting me off.

LEG. VILORIA • FISHER:

•• like that during the holidays, but what I'm saying is we're trying to move forward ••

MR. ODRISCOLL:

Come live in my house.

LEG. VILORIA • FISHER:

We're trying to move forward, because looking back 60 days is not helping you, but what we're doing is trying to get this out of order, pass it expeditiously so that we can move forward.

MR. ODRISCOLL:

And then what's the next step after you folks take this out of order? What's the next step?

CHAIRMAN BINDER:

On Tuesday this will be before the full Legislature.

MR. ODRISCOLL:

And where is that going to take place?

LEG. BINDER:

Tuesday some time between 9:30 in the morning •• you know what? We'll even try to take that out of order in the morning.

MR. ODRISCOLL:

Here?

CHAIRMAN BINDER:

We'll be here at 9:30 on Tuesday, we'll pass it there, the County Executive has to sign it. I'm sure, if Ben sticks his head up, we can probably get him to expedite the signature on that, get that signed right away. At that point, I would guess that the transfer is going to have to be made between pretty quickly between •• the Treasurer's Office, I assume, is going to have to authorize or get the transfer to happen, and once that happens, I assume that the departments will be able to write the check because the money will be in the account. So that •• and that •• it should happen •• after Tuesday, the whole system will accelerate. Every other thing •• let me just make sure, so every other "t" to be crossed and "i" to be dotted is taken care of up until this point other than the money? In other words, there's no more hoops to jump through from appraisals to any other checks or anything we need?

MS. BAFFA:

Correct.

CHAIRMAN BINDER:

It's just the money?

MS. BAFFA:

Uh•huh.

CHAIRMAN BINDER:

Okay. So you're at the point now the County's done all the background work, they've gone through all the legal things they have to do, there is only literally one thing left. That means we have pass this today, we cannot •• we're not •• we're just not going to meet before Tuesday. On Tuesday, we will •• we will meet, that will be the last meeting of the year. We can get the County Exec to expedite that. We can also be in touch with the appropriate people to make sure the money is transferred as quickly as possible, and we will expedite getting the check. So this should happen rather quickly after Tuesday.

LEG. CARPENTER:

If I could, mr. Chairman. I know when Mr. ODriscoll had come in, part of his frustration too was not knowing what the amount was that he was going to be getting. Now, once this resolution is approved here today, will you be able

to release that information, or do you have to wait for the full Legislature?

MS. BAFFA:

I'll leave that up to you, but we can send out •• start sending out settlement offers.

LEG. CARPENTER:

I think you need to do that. So at least they know where they're headed, because that seemed to be his biggest frustration, not knowing how much it was going to be covered for.

CHAIRMAN BINDER:

I think there's a very high probability, enough that you can send them out, if we pass it here today, that the full Legislature •• that we'll have ten votes. And I think we have a commitment on the County Executive's part to sign the bill. So it would seem to me that you can •• you can do that right after. If anyone gets in trouble, you point to me, I'm going to be out of office after the end of December anyway.

MS. BAFFA:

Leave me your phone number.

CHAIRMAN BINDER:

There you go. If you need authorization from the Chairman of the Committee, then please send them out after today, so you'll even have that in the mail, you'll have numbers.

LEG. CARPENTER:

Okay.

LEG. BINDER:

We have a motion and second before us. All those in favor? Opposed? Approved that it's now before us.

2355, transferring Assessment Stabilization Reserve Funds to the Capital Fund, amending the 2005 Operating Budget, amending the 2005 Capital budget and Program, and appropriating funds in connection with emergency work and damage at Suffolk county Southwest Sewer District No. 3 resulting from sustained rainfall occurring in October (COUNTY EXEC).

LEG. CARPENTER:

Motion to approve.

LEG. BINDER:

Motion to approve by Legislator Carpenter, seconded by Legislator Viloría •Fisher on 2355. All those in favor? Opposed? **Approved (VOTE:5•0•0•1 • Not present: Legis. O'Leary).**

Okay. So that's approved, it's approved by the committee. You'll hear from the department, they'll send you the settlement offers, you have the numbers, and after next Tuesday, the money will be in the budget for the Sewer Agency •• the district to actually be able to send you out checks. Okay. Thank you.

LEG. FOLEY:

Thank you, sir. All right. We're going to go right to the agenda.

1829, amending the 2005 Capital Budget and Program and appropriating \$100,000 in funds for a sound wall study @ CR 97 Nicoll's Road between Montauk Highway and Furrows Road (LINDSAY).

I'm going to make a motion to table, seconded by Legislator Carpenter. All in favor? Opposed? 1829 is **tabled (VOTE:5•0•0•1 • Not present: Legis. O'Leary).**

1988, authorizing execution of agreement by the administrative head of Suffolk County Sewer District No. 3 • Southwest with the owner of Tilles Corporate Center East (COUNTY EXEC).

I'm going to make a motion to table, seconded by Legislator Carpenter. Hold on a second, we can't do anything right now. We are in limbo. Seconded by Legislator Kennedy I meant, not Carpenter, I slipped. On the motion, Legislator Viloría•Fisher.

LEG. VILORIA•FISHER:

I was going to ask a question about another resolution.

LEG. BINDER:

Okay. All in favor? Opposed?

LEG. FOLEY:

Opposed.

LEG. BINDER:

Opposed by Legislator foley. **TABLED. (VOTE:3•1•0•2 • Opposed: Legis. Foley • Not present: Legis. O'Leary and Carpenter).**

2075 was adopted by CN.

2095, amending the 2005 Capital Budget and Program and appropriating Capital Budget and Program Pay • As • You • Go funds in connection with the purchase and installation of bike racks on Suffolk County Transit Buses (CARPENTER).

Let me skip over this.

LEG. VILORIA • FISHER:

I wanted to ask the Commissioner a question about this resolution.

CHAIRMAN BINDER:

Can I just skip over it for now? He'll still be here, and I want to let Legislator Carpenter come back in here. Did she leave? I know she is leaving early. We'll jump over that for now.

2144, authorizing the intermunicipal agreement with the Town of Brookhaven to share paving and asphalt contractors (COUNTY EXEC).

LEG. FOLEY:

Motion to table.

CHAIRMAN BINDER:

Motion to table?

LEG. VILORIA • FISHER:

I'm surprised, you don't want to do that?

LEG. FOLEY:

No. I don't think they're ready for it.

CHAIRMAN BINDER:

Mr. Commissioner, tell us about 2144.

COMMISSIONER BARTHA:

I believe this resolution should be withdrawn.

LEG. BINDER:

Motion to table subject to call by Legislator foley, I'll second. All in favor?
Opposed? **Tabled subject to call. (VOTE:5•0•0•1 • Not present:
Legis. O'Leary).**

2150, adopting Local Law to promote energy efficient environmentally friendly dredge project (VILORIA•FISHER).

LEG. VILORIA•FISHER:

Yes. I'm planning on tabling it, because of the Department of Public Works has some concerns, but I'd like you to just speak to those concerns, Commissioner, so that they can be on the record and very clear, because I wasn't •• I know there was the one concern about the larger dredging projects and that it would be difficult for some of those entities to access enough bio•diesel to run their equipment, although I'm hoping that in the very near future we'll have bio•diesel available here in Suffolk County. But there were other changes that you were looking at in the legislation, and I was just wondering if you could just expand on those a little bit.

COMMISSIONER BARTHA:

The biggest problem is, as you said, with the large dredge projects such as Smith Point erosion control that we're planning to do this winter. The companies that do that type of dredging have tanks, fuel tanks, as big as 200,000 gallons. It's the tank itself when you put bio•diesel in it, it has the effect of cleaning the walls of the side of the tank. And once all that gunk, essentially, winds up in the engines, you have a problem. We have •• the pilot program that the County's doing, not with respect to dredging, but for the trucks, we're using a brand new tank. If we expand that program, we will be cleaning the tanks before we put the bio•diesel in. That's the biggest single concern. We're also looking at the feasibility of using the bio•diesel in our own County dredge, which is something that could be included in the resolution once we have some time to look at this. So we're looking forward to working with you in the next several weeks and early in the year be able to have a resolution.

LEG. VILORIA • FISHER:

Okay. I thought there was another place where there was some language as far as how it would be included in the RFP, how we would •• the parsing of the language within the FRP for dredge •• for bio•diesel.

COMMISSIONER BARTHA:

It would actually be a bid as opposed to an RFP. There is some extra cost associated with this, which we would •• you know, we want to make people aware, but that compared to the cost of the dredging projects, it's really incidental.

LEG. VILORIA • FISHER:

Although the cost of the dredging in Stony Brook, the person who did win the bid was actually the low bidder. He wasn't more expensive, although he was using bio•diesel.

COMMISSIONER BARTHA:

That's correct.

LEG. VILORIA • FISHER:

So it didn't cost the County any more to use bio•diesel on that.

COMMISSIONER BARTHA:

Not on that project, no.

LEG. VILORIA • FISHER:

Okay. I just wanted to make sure that was clear on the record, that it didn't cost us any more money doing it in Stony Brook. Okay. So I've made a motion to table.

LEG. FOLEY:

Second.

CHAIRMAN BINDER:

We have a motion to table, seconded by Legislator Foley. All in favor? Opposed? 2150 is **tabled (VOTE:5 • 0 • 0 • 1 • Not present: Legis. O'Leary)**. We're going back to 2095.

2095, amending the 2005 Capital Budget and Program and appropriating Capital Budget and Program Pay • As • You • Go funds in connection with the purchase and installation of bike racks on Suffolk County Transit Buses (CARPENTER).

LEG. CARPENTER:

I spoken •• table this •• with the department about this that there are other

municipalities doing this. I know in Jersey they're doing it, some other counties in Upstate, New York, and the other escapes me that we knew about. But especially in this time of high energy cost and trying to encourage people to use other means of transportation and hopefully the push for increased bus routes, and I know with all the road projects now they're putting bike lanes in. It just seems to make sense. And when I actually saw, you know, the right •• the rack in front of the bus, it holds, like, four or five bikes. They just, you know, get put on, and the person hops on the bus. So it seems that the time is right for something like this. So I'd like to make a motion to approve.

LEG. VILORIA•FISHER:

I have a question.

CHAIRMAN BINDER:

I'll second. On the motion, Legislator Vilorina•Fisher.

LEG. VILORIA•FISHER:

The last time we considered this and spoken about it, Commissioner, you had said that the configuration of the buses •• maybe I read it in one of the memos •• was such that the bike rack at the front of the bus would interfere with the lights. Now I'm wondering, there is going to be a purchase of new buses. I'm certain that we're continually expanding our fleet and adding new buses to it. Are we looking at buses that would accommodate bike racks? I think this is a very good idea, I fully support it for all the reasons that Legislator Carpenter has enumerated. But if this can't work on the existing buses, I'd like to see some kind of adjustment so that we could make a commitment that any new buses that are ordered would be able to

accommodate bike racks, because I have seen it in other cities. I've seen this, I think I was in the Philadelphia area where I saw bike racks on buses. But can you comment on that, please?

COMMISSIONER BARTHA:

Well, working with Legislator Carpenter's Office, Atlantic City has buses with bike racks, and the bike racks, it's our understanding, hold two bicycles each. Our concern is whether the bicycles when placed on the racks would actually block the headlights, and that's all something that we would look at very carefully if we're going to have this in the future. We would •• to extent that we could, specify buses with enough distance between the headlight, that wouldn't be an issue.

We had suggested that this be a pilot project to •• so we can feel our way along. There's some concerns that it be •• impact the bus schedule, the time that it takes to put a bike on the rack as well as liability concerns. And New Jersey Transit, from what we understand, handles through •• they posted a disclaimer on the bus by the rack, drivers try not to leave the bus unless absolutely necessary to give instruct on securing the bicycle. And from •• also from what I understand, New Jersey Transit doesn't use them in the more developed areas of the state. But there's certainly areas where this would make sense in Suffolk County, and that's why we had suggested a pilot program.

LEG. CARPENTER:

I have no problem with it being a pilot project at all. I think it's definitely the way to do.

MR. ZWIRN:

I think the County Exec was concerned about that too. It holds •• it sounds like how could you be against bike racks on buses, you know, it sounds like a great idea. But there are some •• you know, we used to have in on the East End. The Hampton Jitney used to have a trailer that used to take people's buses •• the little mini buses used to actually have bicycles with them so people could ride around once they got to a location out there in a town, they could actually use their bicycles. But I think there were some concerns raised. If we could do it maybe on a pilot level so we could see how it works, what the delay is with putting bikes on and off, will it hold up •• I know, like, the S•92 that comes out East is packed with people. If you have to slow it down, that would be ••

LEG. CARPENTER:

Not a problem.

CHAIRMAN BINDER:

The legislation calls for 60,000 and I would say that that's up to 60,000, so you might •• you know, for a pilot, you might want to do less. The sponsor obviously thinks that that's okay just to see if we can kind of get it over •• through the pilot section •• stage of it. Legislator Vilorina•Fisher.

LEG. VILORIA•FISHER:

Counsel •• Ian, in order for it to be a pilot, does the resolution have to be changed or can the existing resolution stand as it is and the Commissioner •• I don't know if we can do a pilot based on resolution as it stands, I'm not certain.

LEG. CARPENTER:

I think it's limited by the amount of money.

MR. BARRY:

The resolution doesn't call it a pilot program, but the Commissioner could spend the \$60,000 how he deems fit.

LEG. BINDER:

Up to \$60,000.

LEG. CARPENTER:

It is up to 60. I was trying to give them as much flexibility as possible.

COMMISSIONER BARTHA:

The resolution does not direct the Commissioner to install bike racks on all buses, so I think that as long as everyone has the same understanding, we're in good shape.

LEG. CARPENTER:

Absolutely. Absolutely.

CHAIRMAN BINDER:

It's not written as to cause you to do any particular •• okay. Motion and a second, all in favor? Opposed? **Approved (VOTE:5•0•0•1 • Not present: Legis. O'Leary).**

LEG. CARPENTER:

Thank you.

LEG. BINDER:

2151, implementing Leadership in Energy and Environmental Design (LEED) Program for future County construction projects (VILORIA • FISHER).

Motion to table by Legislator Viloría•Fisher, seconded by Legislator Foley. All those in favor? Opposed? **Tabled (VOTE:5•0•0•1 • Not present: Legis. O'Leary).**

2204, establishing County policy to require hybrid or alternative fuel buses in the Suffolk County Transit System (COOPER).

LEG. VILORIA•FISHER:

Motion to table that.

LEG. BINDER:

Motion to table, second by Legislator Kennedy. All those in favor? Opposed?
2204 is **TABLED (VOTE:5•0•0•1 • Not present: Legis. O'Leary)**.

**2308, adopting Local Law to further strengthen street•vending
protections (COUNTY EXEC).**

LEG. VILORIA•FISHER:

Motion to approve.

LEG. FOLEY:

Second the motion.

LEG. BINDER:

Motion to approve by Legislator Viloría•Fisher, seconded by Legislator Foley.
Legislator Kennedy.

LEG. KENNEDY:

Yeah, can I have a brief explanation on this again from Counsel.

COMMISSIONER BARTHA:

I can probably help you out on this.

LEG. KENNEDY:

I just •• I don't recall whether or not we're talking ice cream vendors here or what.

COMMISSIONER BARTHA:

This is ice cream vendors. Last year a resolution was adopted that basically made me the King of the Ice Cream Trucks. Each vendor, we license the vendors each year, and I have to decide on whether they had good moral character or not, solely, without any appeal mechanism. You would be surprised at the information you get back from some of these people that had DWIs a number of years ago, DWIs with children in the car, assaults on people. If it was 15 years ago, do you think they're good people now? And also, we had to rely on information that we weren't confident with 100% complete, because we don't have the authorization to get fingerprints and to get records from the State Division of Criminal Justice Services. So now the Police Commissioner and the Director of Probation as well as myself will make this decision. And we also will be fingerprinting the applicants so that we can get their criminal histories and do a more thorough check on them.

LEG. KENNEDY:

How many ice cream vendors do we •• • approximately •• or vendors, street vendors?

COMMISSIONER BARTHA:

Approximately, I would say about 100 •• 200, I'm sorry.

LEG. KENNEDY:

County wide only 200?

COMMISSIONER BARTHA:

Yes.

LEG. KENNEDY:

Is this exclusive jurisdiction at the County level or •• I seem to recall that out in the Clerk's Office we used to do peddler's licenses, actually veteran peddler's license that were •• I thought the towns had some jurisdiction in this area also.

COMMISSIONER BARTHA:

Some of the towns do assert some jurisdiction on street vendors, including ice cream vendors, and we coordinate with them our information and the licensing.

LEG. KENNEDY:

So it's not that it's repetitive, but in other words, each of you has kind of even exchange between whatever the repository of that data bases are?

COMMISSIONER BARTHA:

That's correct. This really strengthens what we have now.

LEG. KENNEDY:

And the DCJS bounce is something that's permitted under this legislation, in other words, once they consent to file the ap with the fingerprints, we as an entity have the right in order to go ahead and make that query?

COMMISSIONER BARTHA:

That's right. By you passing this resolution, it authorizes Public Works to get that information. We didn't have the standing to get that information before.

LEG. KENNEDY:

And you've got the requirements, the parameters, the controls in order to maintain the confidentiality and things like that are necessary?

COMMISSIONER BARTHA:

Yes.

LEG. KENNEDY:

Okay. All right. Thank you.

CHAIRMAN BINDER:

So we license all these guys. Is there something we can do about that infernal music •• forget it. I can't take it. In fact, I would like to do a study of some of those drivers who drive around all day with the same loop. I mean, I don't know. How do you do that?

COMMISSIONER BARTHA:

Build a noise wall around them.

LEG. VILORIA • FISHER:

Let's move on, guys.

CHAIRMAN BINDER:

I think we need sound walls around our houses. I have another question. One of things, which is on first blush a good thing, they have to have the swing arms, we've been doing this for years, we did this some time ago about

having a stop swing arm, you know, when they open •• when they stop they have to put the thing out. That's a violation, that's fine, if they don't put the swing arm so people know to stop.

I think what you have introduced now is that motor vehicles approaching, I guess, from behind or from the front have to now stop as they do for a bus, Section F 475•3 S •• F. Here's my problem, my concern. While that's a good idea, there are a couple of things. Number one, the amount of time that you have to stop for a bus, for kids getting off or on a bus is •• I mean, at the longest, two minutes. You know, if there are three or four kids, they all get off, moms and dads pick them up and they're gone, and the bus takes off. So you're really staying for a short time. If you've got ten kids in front of an ice cream truck and all of them have to get their ice cream and decide, you know what? It's tough. You have got •• you know, you've got 20 different or 30 different things and you don't know what to get and there's change and there's a lot of kids, I don't know how long someone is going to have to stop, number one.

MR. ZWIRN:

It's a Stop and Go Law, you don't stop and wait •• I think you stop and then you can proceed.

LEG. BINDER:

Stop before proceeding.

MR. ZWIRN:

It's a Stop and Go. And I have to tell you, I tried to pass this in Nassau County in 1991 after we had a number of fatalities, including in my town where a child was killed by somebody going around a stopped ice cream truck. I think this law should be state wide.

LEG. BINDER:

I agree. In fact, that's how I started this. I think •• but one of the things you have to do •• and I guess this is really where I was going, I didn't realize it was stop and proceed ••

MR. ZWIRN:

Unlike a school bus where you stop and you have to remain stopped until the bus puts down the sign and starts moving again or the driver waives you on.

CHAIRMAN BINDER:

I'm not looking, is there a definition section that says what stop it? In other words, stop is as defined by the Motor Vehicle and Traffic Safety Law? Because first off, the only one that's going to enforce this is the police officer that sees that someone did or didn't stop, and they're going to have to decide what that stop means. Is that stop according to •• is that a defined stop. I stopped. I mean, it was a rolling stop,

MR. ZWIRN:

Stop is stop, yield is yield, slow is slow. Stop is stop.

CHAIRMAN BINDER:

I know, but the law doesn't work that way.

MR. ZWIRN:

It's to protect the child. And I think if you're rolling through and a child •• I mean, I can't tell you. If you're going to allow ice cream vendors on the road, I mean, that's another •• that's another position the County could take at some other time. But if you're going to have them on the road, and for some people this is their only source of, you know, getting a refreshment in the summertime, I think this law is just •• it's a child safety law, and I don't think you can do more than ••

CHAIRMAN BINDER:

No. I'm talking now technicalities. The technicalities are important when you want to give someone a violation and a fine. The problem with law, I don't have to tell you, is if it's not specific enough and it doesn't have required definitions •• if you were to go a stop sign and argue, you can't argue, because when you go before a judge now, if a police officer saw you, he can say you didn't meet a specific definition. Believe it or not, in New York State Law it is defined what it means to stop. You think it says stop, you stop.

MR. ZWIRN:

I worked in Traffic Court for a year and a half in the Nassau County District Attorney's Office, I've heard a lot of definitions of stop, but only one that any judge in the State of New York understood.

CHAIRMAN BINDER:

Right. But New York State has •• I'm just saying you have to be careful with definitions if you're going to levy fines.

MR. ZWIRN:

And I'm not saying that I'm proud that I work there for a year and a half. I don't know why, everyone else worked there six months.

CHAIRMAN BINDER:

The other question is the way it's written is stop and proceed. I'm not saying that we shouldn't pass this. But I'm telling you you might want to revisit definitionally what it means to stop and proceed. And then next I would tell you, that you are going to have to do something to do an education program on this, because people are very used to •• used to the law being very specific with school buses. This is a great thing, it absolutely has to happen. Kids are running to these ice cream trucks. They are in absolute mortal danger with people driving. But if you don't do an education program, this won't do anything.

I would, if I were you, in the beginning of the year, put a few dollars in an appropriation, put in a bill and create some kind of specific line item program to advertise this and make •• you need a public awareness campaign. It will never happen otherwise. So I would just suggest, and I'm going to say we should go forward with this, look at stop and proceed to make sure that you don't beat in legally so someone can't beat the violation because you don't have the specific definition. And without being specific, they might get

around it whether you like it or not, they may be able to. And secondly, you need •• you need a •• you definitely need a public awareness campaign.

LEG. KENNEDY:

Mr. Chair.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

I agree with you, I think the implementation and the language is very important. And I guess I'll try to go to another point that we talked about a little bit before. If we're •• rather than advocating for an amendment to the VTL, which would have state wide impact, we are looking to, in essence, I guess, codify this amendment in the County Code, the Administrative Code, what happens for those individuals who are licensed under that scenario that we just talked about where we have overlapping jurisdiction, if you will, vis a vis, Public Works and the towns?

And again, I'll go back to that scenario where, I know because I did it out in the Clerk's Office, issued veterans peddler's licenses for a variety of different types of vendors, you know, be they hot dog vendors, ice cream vendors, what have you, as far as being able to look at the enforcement aspect, how do we go about now whether or not we have somebody who's permitted under DPW or permitted under the town level and/or does this amendment •• this may even be a question for Counsel. Does it give us the uniformity we

need amongst all ten towns and 31 villages regardless of who had authorized that, you know, entity to be out on the road.

COMMISSIONER BARTHA:

There's nothing new with this licensing. This goes back at least 15 years, the licensing of street vending vehicles by the Department of Public Works. What was new this past year which was problematic for us is what I described about the business about the good character. Public Works asked for this resolution to address the character aspects of it. It's my understanding the Police Department asked for to define the stop and observe.

Presently, I'm not sure what the sign •• the swing arm says. It may stop, simply stop or it may stop and then proceed. We will as part of our •• you're talking about public education, we will as part of our licensing, require that sign say stop and proceed, stop, observe and then proceed.

LEG. KENNEDY:

Charlie, that's fine, I understand that. As a matter of fact, I think the signage is important, the notice is important, but I guess I'll direct this question to Ben, go back to your days back in Traffic Court. If, you know, a defendant is in there and says, I'm not licensing under DPW, I got a licensing out of, you know, Southampton Town in order to go ahead and vend ice cream. Southampton Town Code, does it say anything about this at all? The question goes to, I think, jurisdiction and whether or not our Administrative Code supercedes or has the overlay so that it's going to capture or cover folks that are in between.

MR. ZWIRN:

I think if you're asking would this part of the resolution, the local law, would be better •• under stop and proceed would be better if it were a VTL Law state wide, I think the answer is yes.

LEG. KENNEDY:

Absolutely.

MR. ZWIRN:

I agree with you, but I think that if you look at the history of both •• on Long Island in both Nassau and Suffolk County, there have been a number of children have been killed because this law is not in affect. And I'm not suggesting that you're saying •• I agree with you. I think that maybe we should take the step here. I don't think that's it's going to •• I think what will happen is that perhaps we can get the state to move a little bit on this, but certainly we cover the County •• the County roads.

LEG. KENNEDY:

It may have the prompting affect, which is, I guess, sometimes why we go ahead and enact things where there may be ambiguity. But I guess if there is •• and that's why I asked Counsel to look at this before, I don't see it. But I really would raise a question as to whether or not an operator who had been licensed by a village or town or the Clerk's Office or whomever would have a credible defense to say ••

MR. ZWIRN:

Only within that village or that town and not on County roads.

LEG. KENNEDY:

Right. Where you could raise a jurisdictional, you know, argument or threshold. And might we not be able to tweak the language in this to go head and talk about the fact that, I guess, we've got the ability to go head and supercede or preempt as to this part of the operation.

MR. ZWIRN:

On the licensing part, I think Charlie was more concerned about, I think, that we would be okay. But on the second part, I think you raise a question that's interesting. I don't have the answer.

CHAIRMAN BINDER:

Where did Legislator Foley go? Another pregnant pause.

MR. ZWIRN:

I could tell you that argument would not have flown before Judge James _Griffin_ in the Nassau County District Court.

LEG. BINDER:

We're back. Motion by Legislator Kennedy, seconded by Legislator Viloría •Fisher. On the motion, all those in favor? Opposed? **Approved (VOTE:5 •0•0•1 • Not present: Legis. O'Leary).**

2326, to authorize a request for proposal to reestablish the Bay Shore Health Center (ALDEN).

MR. ZWIRN:

I think I'd ask for a motion to table, we're still working with the sponsor on this. I don't think he would have any objection.

LEG. FOLEY:

Motion to table.

LEG. VILORIA • FISHER:

Second.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by Legislator Viloría •Fisher. All those in favor? Opposed? 2326 is **TABLED (VOTE:4•0•0•2 • Not present: Legis. O'Leary and Carpenter).**

2349, Authorizing the execution of an agreement between the County and the New York State Department of Transportation for 80% federal aid for Suffolk County Transit Bus Route S•92 service enhancements (COUNTY EXEC).

Where is S•92.

COMMISSIONER BARTHA:

That's on the East End. That's the route that a number of times people have come here complaining.

LEG. VILORIA•FISHER:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by Legislator Viloría•Fisher. All in favor? Opposed? **Approved (VOTE:4•0•0•2 • Not present: Legis. O'Leary and Carpenter).**

I'll jump over 2356 for a second. We'll leave all the controversy for the end here.

2370, authorizing execution of a road maintenance agreement with the Town of East Hampton (COUNTY EXEC).

Same motion by Legislator Foley, seconded by Legislator Vilorina•Fisher. All in favor? Opposed? **Approved (VOTE:4•0•0•2 • Not present: Legis. O'Leary and Carpenter).**

CHAIRMAN BINDER:

Okay. Now we're going to have fun, I guess. We have two pieces of legislation, **2356, amending the 2005 Capital Budget and Program, establishing an Affordable County Jail Cost Containment Policy and appropriating Capital Budget funds in connection with the construction of the new jail/correctional replacement facility at Yaphank,** and **2383, amending the 2005 Capital Budget and Program and appropriating Capital Budget funds in connection with the construction of the new jail/correctional replacement facility at Yaphank.**

Let me •• I just wanted to ask Counsel first if there's •• if they are at odds such that if •• let's say both passed, I want to give a scenario, because we really have to take these almost as a group here •• if both passed and both passed the Legislature, what is the •• I hate to put you on the spot. Do you know the affect of having both of these passed, are they mutually exclusive? Do they compliment each other in any way? I want to see if there's a legal •• then I can ask •• I'm going to ask Budget •• I just want to see if there's a legal ••

MR. BARRY:

To the extent that certain of the offsets are the same, you would just take the offset once, not twice. And there are different offsets in each one.

CHAIRMAN BINDER:

But they're for different things.

MR. BARRY:

They're for different things. Also, the County Executive's resolution rescinds a bonding. In order to rescind a bond, you need 12 votes to do that. So you'd be passing them in different ways.

CHAIRMAN BINDER:

Okay. So we need 12 votes to pass the County Executive's and ten votes for 2383, okay? But they're not mutually exclusive in that •• well, I guess, in a sense they are mutually exclusive. If you pass •• well, let me •• let me then go to Budget Review. Let's talk in terms of budgetarily if they're mutually exclusive, what happens if they both pass, if there's no decision, let's say, made by the Legislature and both were to pass, what happens?

MS. VIZZINI:

I think if both passed, you'd be reducing the 2005 Capital Budget a little bit more than you need to offset the \$22 million increase in the jail project. Basically, the difference between the two resolutions; the County Executive's resolution includes two major policy issues. The first one is the fact that the estimated cost of the jail project has escalated at least \$22 million, and the County Executive would like to move forward on appropriating the bulk of Phase One, \$93 million in 2005. And as you know, by the Charter, if you're going to increase one project, you need an offset from other projects. So what the County Executive's resolution does is increase the jail project by 22 million in 2005 and offset it with commensurate reductions in other projects.

The other resolution, the Presiding Officer's version, does pretty much the same thing. There is only one difference as far as the offsets that are used. The Presiding Officer's version takes into consideration that in the Capital Project 8126, which is the Hauppauge Industrial Improvements, we have other resolutions still in the pipeline that use about a million dollars in offsets that the County Executive's version cannibalizes for offsets to the jail. So the Presiding Officer's version uses a Capital Project having to do with homeland security that according to Economic Development was not moving forward, so we removed about a million•six from that project to allow for the fact that there are other resolutions using money from 8126 as offsets.

The County Executive's version has a major policy issue in it that the Presiding Officer's version does not, and that is rescinding prior authorization to move ahead on the Riverhead County Center. If you recall in 2004, the Legislature authorized \$27 million in appropriations for improvements to the Riverhead County Center. This rescinds that amount to 5.8 million rather than the 27 million, giving you an additional reduction of \$22 million with the intent, I believe, to reduce anticipated debt service associated with the Capital Program.

CHAIRMAN BINDER:

Okay. Legislator Vioria•Fisher then Legislator Kennedy.

LEG. VILORIA•FISHER:

Thank you, Gail. Mr. Chair, it seems to me that the Legislators who are ••

CHAIRMAN BINDER:

I'm sorry.

LEG. VILORIA • FISHER:

I was trying to address part of your original question which is •• which asked what if both were to be passed, which I think is probably academic, because if you look at the cosponsorship on 2383, it's a bi•partisan cosponsorship, because as a Legislature we had made a policy statement that we did want the renovation of the County Center in Riverhead. And so we disagreed with that piece, which is a large piece of the County Executive's resolution. And so I believe that there would probably be support to pass 2383 out of committee rather than 2356.

CHAIRMAN BINDER:

Legislator Kennedy then Legislator Bishop.

LEG. KENNEDY:

Thank you, Mr. Chair. Gail, in 2383 •• first of all, I agree with Legislator Vilorina•Fisher as to where we are at with going forward with the renovations out in the County Center in Riverhead. You know, DPW has moved along with it. I know full well as a matter of fact having sat with Godek and Mr. LaValle and Mr. Bartha that the plans have gone through a variety of iterations, and we're at the point where the pare•down plan is still to the tune of whatever it is at this point, 31, 32 million, and it will barely address, you know, the woes in a building that's a half century old, still without a working elevator or escalator.

But to 2383, Gail, I have this question about one of the offsets, the Hauppauge Industrial Park. I know I've raised this question before, I guess I'll ask it again only because I see this project as an offset that has been utilized apparently quite frequently, yet there is a major expansion and rebuilding with that plant in place. Again, it may be my, you know, confusion associated with the Capital Budgeting process on occasion, but aren't we looking at the need to have go ahead and make up in '07 or '08, 20 million, 25 million, \$30 million in order for that project to occur?

MS. VIZZINI:

You're absolutely right. When the County Executive came forth with his recommended 2006•2008 Capital Program, this particular project, which had \$21.4 million adopted in 2006, the monies were moved to 2007 indicative of the fact that we were not ready to move forward, and we had more homework to do before we got to the point of moving forward.

LEG. KENNEDY:

And I can appreciate that from the planning perspective. Obviously, you know, waste treatment systems require an extensive amount of study, engineering, outflow projections and all those types of things. And obviously, the money can't be spent until the homework is done. However •• I guess this is a question I have for Mr. Zwirn. What's the level of confidence that we have that there'll be restoration of this funding in two years from now when we're willing to go ahead and whack the County Center, which has been in the works now for four or five years? I guess he's not hearing it. Charlie, why don't you speak?

COMMISSIONER BARTHA:

The County Executive has made clear in a number of meetings that I've been at that his support for seeing sewage treatment facilities as part of Economic Development and has been very supportive of that project in Heartland as well as the Southwest Sewer District. So I would anticipate the County Executive would put the funding in 2007, which is when we would need it for this project.

LEG. KENNEDY:

As is, I'm sure he's supportive of a decent healthy working environment for County employees, yet we're looking at once again being willing to go ahead and whack it. Can you talk to this at all, Ben? I mean, HIA is seemingly ••

MR. ZWIRN:

My understanding is that it is •• we anticipated this be in 2007 originally. I mean, the County Executive had this money in his offset as well. I mean, but they fully intend to go forward with this project.

LEG. KENNEDY:

So in '07 we can anticipate it's going to be funded to the tune that it needs to be funded without some language that we usually see about the Capital Budget being blown shy high about different projects here, there and everywhere?

MR. ZWIRN:

Now you're asking me a different question.

LEG. KENNEDY:

This one in particular. I'm looking for a statement of commitment on the Hauppauge Industrial Sewer District.

MR. ZWIRN:

I believe I've never heard anything to the contrary.

LEG. KENNEDY:

Okay. All right. Thank you.

MS. VIZZINI:

If I may, Mr. Chairman. Just to point out that the monies for the Hauppauge Industrial Project would come from the sewer district themselves. So one of the reasons it's include in here is to meet the Charter requirement for offsets. The Charter is mute on the subject of what kind of money we're using for offsets. And as you can see from both of these resolutions, the sewer funds are used rather extensively to meet the Charter requirement for the offset. But any time you see an X, that's indicative of the fact that these are going to come from the sewer district monies themselves, not from the General Fund.

LEG. KENNEDY:

Thank you.

CHAIRMAN BINDER:

Legislator Bishop.

LEG. BISHOP:

Thank you, Mr. Chairman. I'm a guest at this committee, but I feel like I live in the jail since I've been involved in that issue so much.

CHAIRMAN BINDER:

I don't know that you want to say •• you want to restate that?

LEG. BISHOP:

I said I feel. I guess I can address this to Mr. Zwirn. The County Executive's approach is to say that the jail is going to cost \$22 million more, therefore, the government needs to cut \$22 million in projects, correct?

MR. ZWIRN:

Correct.

LEG. BISHOP:

The Legislative leaders alternative says the jail is going to cost \$22 million more, therefore, we will postpone \$22 million in projects and not cut them, is that an accurate •• Ms. Vizzini, I guess you are speaking for the Legislative leaders. Tell me, are they cutting the projects or they're just postponing them?

MS. VIZZINI:

Well, we'll know what that determination is when the 2007•2009 Capital Program comes out. To meet the Charter requirement, we are reducing the monies in 2005 by that same amount.

LEG. BISHOP:

The Legislative leaders are not even approaching the question. They're saying we're going to cut them now, and it's now the Executive Branch's decision whether to go forward with the projects in the future. So let me ask the Executive Branch. If they cut the projects, are you going to go forward with them in the future?

MR. CHIUSANO:

My name is Carmine Chiusano. I mean, the intent was to use the projects identified in 2356 as offsets, but clearly, as you see from talking about 8126 that the project is being used as an offset in 2005, but it's been basically postponed to a later year, 2007. And clearly, the intent is to continue to go

forward with that project in 2007. So it is basically being postponed, and that's one of the larger projects that being used as an offset as with some of the others. Clearly, the intent of the resolution, 2356, the County Executive's version, is to reduce \$22 million in already prior authorized appropriations with the intent of reducing future debt service pavements. The way you elaborated it was correct, and that is the basic distinction between the two resolutions.

LEG. BISHOP:

That's a very important distinction, because the Legislature essentially is going on a path of increasing an already bloated borrowing binge even further because they don't want to make tough choices. Now, the Executive is making a poor choice, so there's no •• but at least it's a choice. The reason it's a poor choice is because there really is, from my perspective, no need to continue on this at this pace with this jail project. You have a new Sheriff who is soon to be sworn into office who has already hit the ground running, as the phrase is so often used, who has a new plan that greatly diminishes the cost of this construction project. And he is going to ask for the Legislature and the Executive's support in a unified approach to deal with Albany to say that we can •• we can do a jail, but we can't do it to the extent that has been envisioned. So why make all these commitments now when you're whole policy is in flux?

Moreover, once again, I will point out that when Robert Gaffney was County Executive and Pat Mahoney was the Sheriff there was a plan for Yaphank, and the plan was a renovation of the Yaphank Facility which was to cost then around \$60 million, perhaps today it would cost 90 million, I don't know what the rate of inflation is in construction, I'm sure it's significant. Why have we never seriously gone back to considering the plan? Well, the answer is because we've been bullied around by the state. It is now, once again, time to stand up to the State of New York. Hopefully, this \$22 million, which again is before a shovel even hits the ground, is the straw that breaks the camel's

back with regard to this project. And finally, the Legislature will have the fortitude to fight the state rather than kowtowing to the state and increasing the burden on the taxpayers. And to think that they're going to do it another \$22 million and won't even cut elsewhere, is to me unconscionable.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

I question •• some of what Legislator Bishop raises, I guess, has some merit to it. I still go back to the concerns, I guess, as far as the •• or our obligation as an employer regarding County employees and the status of the County Center in Riverhead. It's •• having been there for eight years, it's not just lousy working conditions, it's unhealthy and it's unsafe, and it's been something that's been looked at many, many times. And as a matter of fact, the ductwork is horrendous, the lavatories are disgusting, and it's something that is unconscionable. But unfortunately, it seems that we do that to our work force all over, which is not a good •• we're not a good employer in that respect.

However, why is it that we're looking at having to go ahead and make this commitment on another 22 million today, as Legislator Bishop has raised, when there has not been one tree taken down, no blade in the ground, nothing, no concrete poured. Administrative work, GIS •• GEISs and things like that, certainly. A lot of preliminary planning and architectural. Why have to go ahead and make this commitment today? Is the price of money? Is it the ability to go ahead and let bonds? What brings us to this issue in this last part of this year?

COMMISSIONER BARTHA:

It's not a committee to spend the money or to make the jail any different. As Legislator Bishop said, there's a new Sheriff coming in, we're looking forward to sitting down with him, as a matter of fact, we're going to do that tomorrow and work closely with him, which may bring the cost of the facility down. If it does, this money won't be spent, because we're not bidding anything for the jail now. But we lose access to these offsets at the end of this year. This is the last opportunity to commit these offsets, which I wouldn't characterize for the most part as postponing projects, particularly the sewer district projects, it's allowing us to time to catch up. We're just not ready to proceed with these projects; the design and planning process is taking longer than anticipated.

LEG. KENNEDY:

Which is understandable. Again, I don't want to beat a dead horse on the sewer district. I've already indicated to you my level of concern and importance for it. You know all of the organizations, and I accept the County Executive's commitment there. But what I don't understand is forfeiting the opportunities with the offsets, particularly when we look at 2356 then in gutting the renovation project out there. How is it that we go to January 1st and we're committed then, and we will actually have the expenditure? I mean, you're making a case if that's the point, from my perspective.

COMMISSIONER BARTHA:

I'll let Carmine address the Riverhead County Center funding, and that's funds that were already appropriated.

MR. CHIUSANO:

I'm not clear what the question is exactly.

LEG. KENNEDY:

My question to Charlie was why are we dealing with these two resolutions today in the last cycle of this year for a project that's going to be on 140 million, 160 million, whatever it's going to be that has not had one hard dollar spent on it yet, it's all only planning?

MR. CHIUSANO:

The reason why we're addressing it now as a total is •• one is \$71 million has already been authorized to be appropriated in the 2005 Capital Budget. So if we do not appropriate that \$71 million at this point, that authorization will be lost as of December 31st. The reason why it couldn't be done earlier in the year was because in order to appropriate construction funds, the SEQRA had to be approved, which was done, I believe, at the December 6th meeting. For the bond to be issued, you do have to have a SEQRA in place.

LEG. KENNEDY:

I recall doing the CN.

MR. CHIUSANO:

Okay. That's why we are appropriating the construction monies now. Now, I guess, based on the best available information, we know the project, based on information that we have, appears at this point to be \$22 million, is going to cost \$22 million more.

LEG. KENNEDY:

We have an overrun of \$22 million.

MR. CHIUSANO:

Right. So there are available offsets to appropriate that additional \$22 million at this point in time, but that is not the full funding for the Phase One project. In 2006, there will be another resolution appropriating the balance. And the 2006 adopted budget has approximately 41 to \$42 million for the balance of the project.

LEG. KENNEDY:

Carmin, I've got to stop you for a second, because I'm having a little difficulty following it. I'm getting a little bit confused. I want to go back to the statement that you made before that if this money is not acted on at this point, we somehow forfeit the opportunity to appropriate it •• I'm sorry, authorize.

MR. CHIUSANO:

What is authorized in the 2005 Capital Budget expires on December 31st. So if it's not appropriated, it will expire and you can no longer •• we no longer have the opportunity to appropriate that 71 million, which is authorized.

LEG. KENNEDY:

All right. Can you hold on just a second? I promise you I'm not going to keep monopolizing this, but I do need to have some level of understanding. Gail, what do you have to say to this as far as what Carmin has outlined? Do we have options as Legislators regarding what's being put in our face again, I guess, as far as an awful lot of money that we've got to make a commitment to now without having had any finality apparently particularly with change in administration and perhaps a change again in some shifting of thinking on a local level? You know, I don't know where State Correction •• Commission on Corrections is at. They have given us the edict to go ahead and perform, but perhaps we have some local attitude. What are our

options?

MS. VIZZINI:

Well, you absolutely do have options, and that's why you have two versions of this resolution. The first option is the jail. As Carmine said, there's 71 million in the '05 budget for the jail right now. You can appropriate that or not. If you don't ••

LEG. KENNEDY:

Where does it go? If we don't appropriate it today, where does it go?

MS. VIZZINI:

It's gone. It's really just a schedule. It's not like the Operating Budget. Worst case scenario is the state requires the time frame as such that we need to now move that into 2006 or address that in 2006. You only have 42 million in 2006 for the jail. Assuming you have to move forward and that is the dollar amount, we would have to cannibalize 71 million plus dollars worth of projects in 2006, because we don't use the '05 monies that are available to us.

LEG. KENNEDY:

Okay. So then bring me back to why we are looking at this 22 then. We have a combined authorization in '05 for 71, or are we looking at 71 plus an additional 22?

MS. VIZZINI:

You're looking at 71 that's there.

LEG. VILORIA • FISHER:

The third resolved says 93 million.

MS. VIZZINI:

We need an additional 22 for the jail.

LEG. KENNEDY:

But we don't need it now.

MS. VIZZINI:

If you don't do the '05 piece of the jail in '05, it will haunt you into 2006.

LEG. KENNEDY:

As does most things in life.

MS. VIZZINI:

And we will be revisiting this policy discussion.

MR. ZWIRN:

You could wipe out the entire •• you know, every other Capital Project in 2006.

MS. VIZZINI:

And, you know, what both resolutions do is provide you with that 22 million. We cut other projects, we postpone as the language says, to give you the 22. If you move ahead on bipartisan 2383, you can defer the policy decision regarding what to do about the Riverhead County Center and what to do about previous authorizations. That's a separate 22 million. And it was for that reason that there is a bipartisan measure, so that you are not required to address these two major policy issues in a short period of time in the same resolution.

LEG. KENNEDY:

I appreciate the alternatives. As a matter of fact, I think as to 2383, it looks to go ahead and utilize other offsets. I don't know that we have to visit any kind of policy decision as far as the Riverhead Center. We have acted. I think we have acted, and we've made it quite clear what our intent is and what our •• what we as an elected body want. And I think, you know, many Legislators prior to me expressed the same thing. They wanted it fixed, they wanted it addressed, notwithstanding the other requirements that we have as an organization. I remain unconvinced that this additional 22 million needs to be committed now, particularly when I see the offsets in 2383, like the

Hauppauge Industrial Sewer project, that may not draw against this authorization until '07, right?

LEG. VILORIA • FISHER:

May I jump in?

LEG. KENNEDY:

Please. I've held it long enough, Mr. Chair, I'll yield.

LEG. VILORIA • FISHER:

I just wanted to address what you were just saying, John, which is I had spoken with DPW and with Budget Review earlier today regarding these issues, because I'm concerned about the sewer district in my district. I don't want to cut a project in my own district. DPW isn't going to •• we can't appropriate the money to the Stony Brook Sewer District now because you are not ready to move forward with that project. So we, through this, are not really postponing the project. The project would be •• the project itself, not the money, would have been postponed any way, because you're not getting to it. That's the reality of the situation.

The other reality, notwithstanding my agreement with David Bishop that I didn't want a mega jail, that I did want to look at alternatives to incarceration. I did, however, tour the jail and knew that something had to be done about it. And no matter what kind of scenario is presented to us by the new Sheriff in discussions that he may be having with DPW or with Albany, I believe the price tag will be more than \$93 million. And what we're

appropriating in 2383 is \$93 million toward jail construction. We're not appropriating 214 million. And whatever the scenario is that's before us, we will be reaching \$93 million. And what we're doing to get there is using these offset, which are projects that would not be accomplished by the end of this year by the Department of Public Works, and they're available offsets that we can •• that we can grasp now and put toward the jail money.

Is that, as Legislator Bishop said, unconscionable and almost immoral? I don't believe so, because it is also immoral to see a deteriorating building, inmates in a facility that is not really healthy. As you said, Legislator Kennedy, we also don't want to see our workers working in the Riverhead County Center •• you know, I've been pushing the LEED legislation, because I'm trying to build buildings that are healthy buildings to work in. I think inmates should be in healthy jails. So we know we're going to be expending at least \$93 million willy nilly.

When the time comes to look at the rest of the money that the construction cost reaches, that \$252 million, we will still have time to make decisions when the new Sheriff gives us his vision of where we need to go. And perhaps we could keep working on it. I don't believe that this is tying us into the \$252 million; am I incorrect in that assumption?

MR. CHIUSANO:

These resolutions are both for just the Phase One funding, the amount of which would be the combination of the 93 million and the amount that would be appropriated in 2006.

LEG. VILORIA • FISHER:

But this is not •• but this is appropriating only the 93 million, and it doesn't tie us to 252 million?

MR. CHIUSANO:

no. It doesn't tie It to the Phase Two of the project.

LEG. VILORIA • FISHER:

And whatever work we have to do in •• does it tie us to the full scope that the state was requiring of Phase One?

COMMISSIONER BARTHA:

This by itself is not enough funding to do everything in Phase One.

LEG. VILORIA • FISHER:

That's what I thought. Okay. So it's not committing us to the full scope of Phase One?

COMMISSIONER BARTHA:

That's correct.

LEG. VILORIA • FISHER:

Okay.

MR. CHIUSANO:

Based on what's available now, the 2006 authorization would still also have to be appropriated, and the 2006 adopted Capital Budget has approximately

\$42 million in it.

LEG. VILORIA • FISHER:

Thank you.

CHAIRMAN BINDER:

Legislator Bishop.

LEG. BISHOP:

Questions of BRO. Level debt service, what is the amount of debt service in the Operating Budget in '05, '06 and then '07 as currently •• using the current Capital Budget?

MS. VIZZINI:

We're getting that for you.

LEG. BISHOP:

I'm going to make broad statements, and you can tell me if I'm wrong. The level debt service policy that was adopted by the Legislature through most of the 1990s and into the 2000s, that is no longer the policy of this government, right? Because of jail, we're going to be incurring greater amounts of debt service in the Operating Budget to pay for capital costs in the years ahead.

MS. VIZZINI:

Debt service is trending upward, you're correct.

LEG. BISHOP:

Okay. This decision today is not •• that's good enough for the point I want to make. I'll get the actual numbers for the General Meeting. But this decision today is not about the timing. You know, when you discuss postponing a project and '06 •• moving '06 and combining '05 and '06, that's looking at the trees and missing the forest. You want to see the big picture, and the big picture is that the amount of borrowing that the County is undertaking is increasing, and the amount of debt service that the Operating Budget is carrying is increasing, and now before this project even begins and before it's really finally designed, because know it's influx and the Sheriff has a new concept, before all of that, there's an increase of about 30%, \$20 million on 70, all right. So it's going up 30% before a shovel hits the ground. And there are two ways to deal with it •• there are three ways, one is the County Executive's approach, which is, all right, we're going to pay more for a jail, but we're going to but less elsewhere, then there's the Legislature's approach, which is we're going to pay for a jail and we're not going to give up anything else, so we'll just hit the taxpayers with more, and then there's a third approach, the one that I've been advocating from the start, which is to take on the state and not build this jail as planned. Phase One•Phase Two together is a disaster, but phase one alone is no bargain. It doesn't do •• you know, it only yields 50 additional cells when you're done with it, phase one. It's not going to solve your problem. This government needs to invest in solutions to the problem, not projects it can't afford, and that's the path it's going down, and that's what you're locking into when you vote for this.

CHAIRMAN BINDER:

Legislator Viloría • Fisher.

LEG. VILORIA • FISHER:

The answer to my question was that we were not locking into that.

COMMISSIONER BARTHA:

What you're doing is appropriating a total of \$93 million. If for some miracle we come up working with the new Sheriff's plan where this will only cost \$50 million, and I don't see that happening, but that's all that we would spend then, it would be the \$50 million. So we're committed to working with the Sheriff and holding the cost down as much as possible. I am very concerned because losing these offsets will create havoc in the Capital Program, Capital Budget in at least the next year. And there are projects in next year's Capital Budget that we all want to see go forward.

LEG. VILORIA • FISHER:

But to expand on what you just said, we're not locking into that. We're not locking into the phase one design as it exists, we're appropriating money.

COMMISSIONER BARTHA:

That's correct.

LEG. VILORIA • FISHER:

Okay. So if we sit down and we look at the design and say that wasn't the phase one that reflects what our real needs are, there is flexibility. And I believe it's going to still cost us \$93 million at least. Based on what I've seen at the jail, it looks to me like we're going to need a substantial amount of money to achieve some level of appropriate housing of inmates.

COMMISSIONER BARTHA:

I agree with you, and I think the way you described the situation earlier and the issue before this committee was very succinct and accurate.

CHAIRMAN BINDER:

Just to get a little clarity on the County Center, if 2356 is passed, what •• the money that is not going to be available is exactly what, for when and when would you envision the County Center, and being very specific, what's going to happen? What will be the moves by the County Executive and the departments to keep it on track or not keep it on track? What's the schedule if 2356 happens •• is passed, what's the schedule for the County Center.

COMMISSIONER BARTHA:

I'll turn to Carmine for that.

MR. CHIUSANO:

If 2356 is passed, there would still be between six to \$8 million left to do some improvements and some renovations to the building. Right now, we're looking into having DPW look at what can be done for the six to \$8 million that would still remain. The 22 million is not the full authorization for the project.

CHAIRMAN BINDER:

What's the plan •• and that would be the plan •• that would be the total plan for any renovations? In other words, that \$6 million, that's going to be the renovation, there be none others, there's none beyond that, and there won't be any follow on appropriations in any future Capital Budgets? I mean, what's the plan for the County Center or is that it, that's the plan? There will be a \$6 million renovation and that's it?

MR. CHIUSANO:

It would still be six to \$8 million in improvements and renovations to the building. Right now they're looking at what six to \$8 million could actually do.

CHAIRMAN BINDER:

You don't know what it would do?

MR. CHIUSANO:

No, not at this point. They're looking at and reviewing the options of what needs to be done.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

There's people in this audience who know very well at this point what six to eight million could do out there, which is not much. The electrical system in

that building is a half century old and blows constantly. The ventilating system in that building is in such poor shape that it's not uncommon on summer days for the humidity content to be so high that the imagers and scanners can't be run. The equipment is rendered inoperable. Not only are employees being subject to conditions that are unfit and unhealthy, the equipment can't be run because it's in such hideous and horrendous shape, and people know that here. What does six to eight million do to fix that, Charlie?

COMMISSIONER BARTHA:

We really can't tell you at this time.

LEG. KENNEDY:

Does it do a new ventilation system?

COMMISSIONER BARTHA:

It does not do a complete new heating ventilating system.

LEG. KENNEDY:

Does it do a new electrical system?

COMMISSIONER BARTHA:

It might be able to do a new electrical system on its own.

LEG. KENNEDY:

That dries all of the equipment and the various floors out there between the Treasurer, all of the humidity and high heat sensitive computer equipment, all of backups, all of the UPS systems? Come on. Nowhere close.

COMMISSIONER BARTHA:

Right. That's what we can't tell you right now.

LEG. KENNEDY:

But what you can tell me is, is that the six to eight million doesn't come anywhere close to addressing the health, safety and just business environment improvements necessary for offices to operate. So it's a ludicrous concept to sit here to talk about what six to eight million will do. I don't buy it.

CHAIRMAN BINDER:

I just •• on that question. So the proposal by the County Executive is to do six to eight million or whatever that amount is. What is the thought by the County Executive? Obviously, it was put forward with a thought as to where the building is now and what at some level it can do. So give me an idea the thinking behind the legislation, because ••

MR. ZWIRN:

Well, it was the size of the project, the number amount was very similar to what was needed to add on. And it was one project as opposed to trying to cannibalize a number of projects that were dear to, you know, Legislators in each of their particular districts. So we thought it was the easiest lift to go in knowing how passionate many people are on the Legislature about going ahead with the Riverhead Center. It was also money that was appropriated this year. So as Legislator Bishop stated, that money would be real dollars that we're using that had been appropriated, now we're just going to take it and use for the jail.

The bottom line is that you have •• we would hope that you pass one or the other. The County Executive prefers his bill, but he understands, you know, the realities of it and would like to see, you know, one of these bills out and get passed by the Legislature.

CHAIRMAN BINDER:

So you're telling me it was a painful choice to put this in? In other words, it wasn't let's just do it, you were concerned •• I mean, I have to ••

MR. ZWIRN:

Absolutely. You know, the County Executive knows that this was a project that many Legislators on both sides of the aisle had come to him and expressed their desire to move forward on.

MR. CHIUSANO:

Clearly, the County Exec is trying to maintain level debt. He's trying to reduce \$22 million out of an appropriated project while increasing \$22 million

for debt service in the jail project. So clearly, the intent is to maintain level debt.

CHAIRMAN BINDER:

By Tuesday, would you be able to give more of •• would you be able to be at least more specific as to what eight to ten million would do? I mean, you have done a lot of engineering around the County, you've done a lot of •• we've done a lot of building around the County. I'm not saying being specific, but let's say this were on as a •• if it were ••

MR. ZWIRN:

Discharged without recommendation.

CHAIRMAN BINDER:

Discharged without a recommendation, it was •• and so would you come •• be able to come before the Legislature and give the Legislature an idea of what we would be talking about? And then here's the other question. Is there plans by the County Executive to then follow on with a future project or another project that would continue a process started by the six to \$8 million, you know, in the next Capital Budget cycle, because it's not in there, but •• I mean ••

MR. ZWIRN:

Yes. I think that's correct. I think the County Executive originally wanted to postpone this project and use this as an offset originally for the jail, but the

Legislature saw differently. But I think that he was trying to leave enough money in there to at least do some renovations like getting the escalator working, fixing up the auditorium. I mean, there were ••

CHAIRMAN BINDER:

In other words, you mean maybe doing •• doing renovations that wouldn't hold up future renovations in a future or let's say next year's Capital Budget and Program that you might be able to put in?

MR. ZWIRN:

Correct.

LEG. VILORIA • FISHER:

I'd like to make a motion to table 2356.

LEG. FOLEY:

Second.

CHAIRMAN BINDER:

Motion and a second to table 2356. I'll just put out a motion to discharge without recommendation, because I think that •• I think there has to be a discussion. And the reason being, Legislator Bishop was correct in that there's something that has to be looked at, and I think by every Legislator.

Now, in the end, I think that's not what's going to fly. I don't 2356 is going to fly on the floor, but I think the discussion has to happen as to what •• and it has to be clear. Is the offset a live offset that's been cut or is it an offset of something that's not going to be spent, we're just not going to spend what we're not spending and we're going to shift it, and that 2383. And that's fine, but I think without both being on the floor, I think there's an incomplete discussion. So I don't know if there's going to be a second. I'm going to make a motion to discharge without recommendation on 2356, is there a second on that? If there's not, then we only have a motion to table 2356. All those in favor? Opposed? I would oppose that. 2356 is **TABLED (VOTE:3 •1•0•2) (Opposed: Legis. Binder • Not present: Legis. O'Leary and Carpenter).**

2383, motion to approve by Legislator Vloria•Fisher, seconded by Legislator Foley. Any other discussion on this? Legislator Foley and then Legislator Kennedy.

LEG. FOLEY:

Thank you, Mr. Chairman. I hope that we could approve this on a bipartisan basis similar to the sponsorship of the bill. Some of us are very sympathetic to the County Executive's dilemma here. It's something that we had anticipated several years ago where we said at that time that in the great traditions of the state foisting upon local governments these unfunded mandates, that at some point in time in the future they would force localities to make a Hobson's choice of whether to move forward with an unfunded mandate or take monies from local projects that are of an equivalent public good.

So we arrived at a point in time where the County Executive, much to his distaste, had to make that kind of decision in the resolution that he had

offered. The one that is now offered by the leadership of the County Legislature that's before us now would enable us to move forward with the Yaphank Facility, but at the same time do something that I had worked on •• and it shows you how long a period of time some of these projects are •• when I was Chair of Public Works, the initial stages of the reconstruction of the Evans K. Griffin Building.

It has to happen. It's something that we, in essence, through the budgetary •• Capital Budgetary process have promised those who work in that building and who live in Eastern Suffolk County that that project was going to move forward. It's going to create a whole host of jobs for men and women in the Building Trades, which is important in and of itself, and it will also give the workers there a more dignified place to work. So that project needs to move forward. This resolution will enable that to move forward, at the same time, deal with this •• the hammer that the •• the sledge hammer that the state is forcing upon us regarding the new jail in Yaphank. So I support •• strongly second the approval for 2383.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

Not that I'm going to beat a dead horse, but I'm going to go back to the one offset again, 8126, if we can, and this is to Gail. We have a total estimated cost at this point of approximately 50 million or 52 million. We have the current '05 Capital Budget authorization of nineteen•five, we're reducing that to fifteen•one to go ahead and make approximately four million available to fund this interim override on the estimate for the construction of the jail; is that correct?

MS. VIZZINI:

That's correct. Keeping in mind that in 2007, there is \$26 million included in the adopted Capital Program.

LEG. KENNEDY:

Walk me through just a little bit more than, if you will, the estimated cost of 50 million to go ahead and fund that project, 26 million in '07, where does the balance of the money come to do that project?

MS. VIZZINI:

Twenty•four million dollars in 2008.

LEG. KENNEDY:

Yielding 50 million? Okay. Now, I'm going to go to Mr. Bartha and ask will the project be ready to be constructed in '07?

COMMISSIONER BARTHA:

Right now, our schedule is very late '07 we would expect to be able to go to construction.

LEG. KENNEDY:

Okay. Now what I'll do is I'll come back and I'll ask one of those things that I guess is in essence unanswerable, but I'm going to ask it anyhow. Why are we addressing a projected cost overrun now interim in the course of actually constructing the jail?

COMMISSIONER BARTHA:

Because we're dealing with such large figures, and offsets of \$20 million are difficult to come by. So in this case, we have them available this year, the SEQRA process is completed. And that was something we were very anxious to complete before the end of the year so we would have access to these offsets for construction for the jail.

LEG. KENNEDY:

Charlie, these offsets didn't just come because concrete went up five cents, you know, a yard or something this year.

COMMISSIONER BARTHA:

You're talking about why the construction cost of the jail went up.

LEG. KENNEDY:

Well, \$22 million is an override, I guess, we're projecting •• we're characterizing that as an overrun at this point. Is this only overrun we're

going to see?

COMMISSIONER BARTHA:

That is certainly our goal and mandate. I would •• we are now at a stage in the development of the schematic drawings and have had time to do a more comprehensive cost estimate than we were rushed into earlier in this year because of the budget process that you go through, that we are confident with the budget we are putting forward now.

LEG. KENNEDY:

So the 71 price tag was based on some sketchy info. The 93 is based on rock sold or it's just that 71 went up to the tune of 20% because of the cost of materials?

COMMISSIONER BARTHA:

Seventy•one was never the budget. The budget for the first phase was approximately 113 or 115 million. It was •• in different years is where •• the money was not all in one year. So we have now seen an increase in that 115 by approximately 20 or \$22 million. That is largely due to better defined drawings. We have opted to put more money up front in the Capital design that will allow for more efficient operating cost. Some of these operating costs that we are •• capital costs that we're incurring will have a two year pay back and other will have a five year pay back because of less operating costs on the part of the Sheriff. There will be a need for less correction officers associated with the jail population and also construction cost increases. The last two years saw tremendous increases in construction materials, particularly concrete and steal and cooper, the wiring.

LEG. KENNEDY:

Aluminum, anything requiring electricity or power which is going to continue to go up year by year by year.

COMMISSIONER BARTHA:

And a jail is a very basic structure. Basically what you're looking at is concrete and steel. So we are dealing with the two commodities that have had the most volatile pricing over the past couple years.

LEG. KENNEDY:

So what you're telling me is we're going to be looking at a higher price tag next year?

COMMISSIONER BARTHA:

I really don't think so. We made projections for inflation. We'd hope that we're moving into a period of stabilization on concrete and steel prices.

LEG. KENNEDY:

I still remain unconvinced at this point as far as, you know, the urgency for appropriating this additional 22. I'm just very concerned that what's going to happen is that we're going to be back here with this conversation some time next March or next June or what have you.

MR. CHIUSANO:

If the 22 million isn't really addressed now and the projects are correct that it's \$22 million over, you may need to address this \$22 million, if it's not addresses now, early next year, possibly as early as February before •• in order to award the contracts and stuff, because I believe the time frame for awarding the contracts ••

COMMISSIONER BARTHA:

The first cell •• the first package, we're going to bid this in a number of different sub phases or stages. We plan to bid in the spring the package for precast cells.

LEG. KENNEDY:

Thank you, Carmine, I appreciate it. That's part of where I wanted to go on this just to get some more information. Do we have a general contractor retained yet? Do we have a GC?

COMMISSIONER BARTHA:

For the jail?

LEG. KENNEDY:

Yeah.

COMMISSIONER BARTHA:

No. We have an architect and we have a construction manager. The architect is proceeding with the design, and the construction manager is helping to review cost estimates starting the very early stages of our engineering.

LEG. KENNEDY:

We have no commitment from a GC, we have no •• well, we're not doing •• we still •• you have submissions as far as your HVAC, your electrical, your plumbing, we have no and fast numbers for any of that any place yet at all?

COMMISSIONER BARTHA:

That's correct. We don't have design drawings or bid documents to solicit those prices.

LEG. KENNEDY:

In the absence of specificity, how is it that we continue to come to, you know, an idea to go ahead •• I wonder whether or not we need \$22 million or scrutiny of the capital just happened to go ahead and identify 22 that might be fast and easy money to grab.

COMMISSIONER BARTHA:

I can assure you that Public Works drove the cost estimating phase of this rather than the Budget Office coming to us and saying, how would you like \$22 million. It was a very difficult process. We went through numerous

iterations and cost estimates, both by the architect and construction manager. We massaged a design, we worked with the Sheriff's Office, and I am optimistic that we will continue to be able to drive •• I say drive down, because at one point we had significantly higher cost figures that, you know, you probably saw published in Newsday and some of you that participated in the CFROC meetings were aware of.

LEG. KENNEDY:

Thank you. I don't want to belabor this anymore. Obviously there's some information I need to get myself. I remain unconvinced of this at this point. Mr. Chairman, what would be the mechanism for a discharge without recommendation.

CHAIRMAN BINDER:

You have to make a motion.

LEG. KENNEDY:

Okay. I'll make a motion to discharge without recommendation.

LEG. FOLEY:

Second.

CHAIRMAN BINDER:

Seconded by Legislator Foley. Any other comments? Discussion? All in favor? Opposed? **Discharged without recommendation (VOTE:4•0•0•2 • Not present: Legis. O'Leary and Carpenter)**. Anything else to come before the committee. Motion to adjourn.

(* THE MEETING WAS ADJOURNED AT 3:26 P.M. *)

_ _ **DENOTES BEING SPELLED PHONETICALLY**