

PUBLIC WORKS

and

PUBLIC TRANSPORTATION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

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, May 10, 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

Jim Spero • Budget Review Office

Kevin Duffy • Budget Review Office

Charles Bartha • Commissioner • DPW

Bob Shinnick • Highway Department • 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

John Lund • Davis Park Ferry Association

Walter Beck • Davis Park Ferry Company

George Hafele • Fire Island Ferries

All Other Interested Parties

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 2:13 P.M.*)

CHAIRMAN BINDER:

If everyone will rise for the Pledge of Allegiance led by Deputy Presiding Officer Carpenter.

SALUTATION

Public Works and Public Transportation Committee will come to order.

I have a number of cards, but before we go to the cards, Walter, if you can come up here. I want to have a discussion on sewer agencies, on creating sewer districts, the process. So if you come up and, Ben, come up, whoever can answer the questions, come up. It's always good to have the Commissioner up too, we always welcome you to the committee.

LEG. CARPENTER:

Mr. Chairman, if I could while they're coming up, I just would like to note for the record that Legislator O'Leary has an excused absence.

CHAIRMAN BINDER:

I'm sorry, I meant to say that. Legislator O'Leary has an excused absence. We had discussed having this discussion at this meeting. Legislator Caracciolo had brought up these questions, so we wanted to get this all on the record, then i'll go through the cards.

LEG. CARACCIOLO:

Thank you, Mr. Chairman. I would also note for the record that we have a representative from the Calverton Hills Homeowner's Association present, who is basically in the audience to take note of the process in which that community could begin to initiate creating a sewer district as part of Suffolk County's •• what is it, how many sewer districts do we have now, Charlie, 19?

COMMISSIONER BARTHA:

Twenty•two.

LEG. CARACCIOLO:

Twenty•two. Wow, growing, growing, growing. So essentially the question is we have a group of homeowners through their association that have indicated they would like to turn their sewage treatment facility over for County operation. What is the process? Where does it begin? What steps are involved? And how does it culminate?

COMMISSIONER BARTHA:

I can give a summary of that process. Typically either a petition is initiated by the Board of Directors for the Homeowner's Association and presented to the Legislator that represents the area or the County Executive, and it then goes to the Sewer Agency, the Sewer Agency makes a •• authorizes Public Works to study the creation of the district, evaluate the treatment facilities, how much it would cost on an annual operating basis to run the treatment plant as well as make necessary improvements, and then that report goes back to the Sewer Agency for action, the Legislature •• there are public hearings along the way, and if the Legislature approves it, it goes to the State Comptroller for approval before the actual district is formed. It is typically more expensive for the County to operate a sewage facility than it is for it to be operated privately.

LEG. CARACCIOLO:

As a rule of thumb that's our experience. How many private homeowner associations have sewage treatment facilities in Suffolk County? We have 22 districts, it seems to me that the number is far greater than 22.

COMMISSIONER BARTHA:

I believe there are over 200 private sewage treatment plants. Not all of them are homeowner associations, some of them would be single owners with apartments, but Ben or Walter can answer that better than myself.

MR. HILBERT:

Probably on the order of about 100 plants.

LEG. CARACCIOLO:

About 100. And over the years, have we been petitioned by others that are not included in the County sewage district program?

MR. WRIGHT:

We've been petitioned by probably three or four that we've taken over. We've been petitioned by others that have a made decision after our report was written that it was something they didn't want to ensue any further because of the cost.

LEG. CARACCIOLO:

In terms of the cost, the evaluation that's undertaken by the department is you look at that facility, you look at what condition it is, whether or not it meets current standard and criteria both the EPA and DEC criteria, as well as our standards in terms of what we would require to take it over, correct?

MR. WRIGHT:

That's correct, yes.

LEG. CARACCIOLO:

Okay. I haven't been involved in one of these for a number of years. The last one, I think, was up in Shoreham.

MR. WRIGHT:

I believe the Village of Ridgehaven Estates.

LEG. CARACCIOLO:

Ridgehaven. That's right. That's going back to the very early '90s. Now, in terms of the petition and the form that's required, is there a prescribed form that has to be used by the homeowners?

MR. WRIGHT:

No, there isn't. In fact, there's a Legislative resolution that was recently adopted, and it based on 25 owners of real property within the development submitting that petition, which is something that comes out of New York State County Law.

LEG. CARACCIOLO:

Okay. And once that petition is signed by 25 residents or homeowners, it comes to the department, to Public Works?

MR. WRIGHT:

Well, we suggest that it go through the County Executive or the Legislature, because the next step would be the Legislative resolution authorizing the agency or staff of Public Works to prepare that report.

LEG. CARACCIOLO:

Okay. So that's all that resolution does ••

MR. WRIGHT:

Yes.

LEG. CARACCIOLO:

•• is to conduct a report.

MR. WRIGHT:

Authorizes us to prepare that report.

LEG. CARACCIOLO:

Okay. Typically what's the timeline associated with the petition, the timeline, the report.

MR. WRIGHT:

I'd say probably three to six months at the most.

LEG. CARACCIOLO:

Okay. So then the Legislature would have to make an independent decision based on the report findings by DPW as to whether or not the proposal is financially sound for the County to participate, that the physical plant is in good operating condition, and wouldn't require any upgrade or improvements?

MR. WRIGHT:

Well, as Commissioner Bartha mentioned, it's not just the Legislature, the public hearings are held for residents as well as going to the State Comptroller that has the •• I guess the ultimate decision on the financial part of it, whether they can bear that cost.

LEG. CARACCIOLO:

Okay. What do we know today about this particular treatment facility? This is an older community as I recall built back in the '70s?

MR. WRIGHT:

Seventy•three is when we had a Sewer Agency contract. So it was probably built around that time. Do we inspect these facilities?

MR. WRIGHT:

No, that's Walter's responsibility.

LEG. CARACCIOLO:

Do we periodically inspect sewage treatments?

MR. HILBERT:

Yes, we do. Actually, we inspect all the plants on a quarterly basis. So it's four inspections a year.

LEG. CARACCIOLO:

Okay. What's the current status based on most recent inspection reports of this facility?

MR. HILBERT:

For the most part, the plant itself is operating fairly well. You are right, it's an aging facility, they are steel tanks, there are some maintenance and upkeep issues with the plant, they do have an oil tank that they store their diesel fuel for their generator, it was leaking, they had to do some work preparing that tank. So there are minor upkeep items. For the most part, the facility is operating, you know, satisfactorily. There is an issue with the leaching pools at the facility. They were in the midst of installing new pools and actually cleaning the old system. They just

got a contract with a licensed operator to finish the cleaning and actually close out that portion of the work that they've been doing. Over about the last seven years they've been doing basic maintenance and repair work; they replaced their pump station and did some other upkeep items; painted some of the steel tankage that was showing signs of rust, etcetera. So they have been maintaining the plant over time. We have been giving them the time, because it is a cost to the Homeowner's Association to do this work. But for the most part, they have been doing what we have been asking them to do, and the plant is fairly well maintained.

LEG. CARACCIOLO:

What would be the advantages to the homeowners to see their sewage treatment plant become part of Suffolk County as a separate created sewer district as opposed to the current operation? What are the pros and cons?

COMMISSIONER BARTHA:

Well, we believe we operate sewage treatment plants better than private entities, which is why it costs a little bit more. We have a diverse and talented staff to be able to do the operations as well as the engineering. It will give them access to the Assessment Stabilization Reserve Fund based on the actions of the Legislature and the County Executive in dispersing that money.

LEG. CARACCIOLO:

And along those lines, what would they be entitled to as a separate sewer district?

COMMISSIONER BARTHA:

There is no ••

LEG. CARACCIOLO:

Formula.

COMMISSIONER BARTHA:

Yeah. There is no formula.

LEG. CARACCIOLO:

So it's across the board.

COMMISSIONER BARTHA:

Well, to all sewer districts?

LEG. CARACCIOLO:

Uh huh.

COMMISSIONER BARTHA:

No.

LEG. CARACCIOLO:

Southwest, I would think is an exception.

COMMISSIONER BARTHA:

It's been pretty much in the past the Legislature adopts a certain percentage increase that they will allow in the rate in the particular sewer districts, and they provide aid to hold it at say a three percent increase.

LEG. CARACCIOLO:

So typically for the homeowner associations in these communities, the immediate benefit they perceive they will receive is a financial benefit?

COMMISSIONER BARTHA:

I don't know that it would be immediate. The immediate impact would most likely be an increase in the cost, but then it would be stable, and by stable I don't mean not change, it would be a relatively nominal increase each year.

MR. WRIGHT:

I think they have to experience a 3% increase before the Stabilization Fund is available. So if ••

you know, we had done a report for Calverton Hills in 1998, and at that time our estimates for operation and maintenance was about \$160,000 a year. Obviously that would have gone up since 1998. But with 236 units, you know, that was a pretty steep price, you know, 650 to \$700 a unit. So they would have to experience a percentage above that before the Stabilization Fund would be available.

LEG. CARACCIOLO:

As part of your report analysis, do you make conclusions about whether or not this would be materially beneficial to them financially?

MR. WRIGHT:

No. We just state the facts, then the State Comptroller's Office, you know, has their opinion based on what the cost would be. And they have certain criteria as far as what type of community it is and where it's located and what they can afford.

COMMISSIONER BARTHA:

And if the costs were too high, it's conceivable that the State Comptroller •• that's the purpose of the State Comptroller's role in this process is to say you can't form a sewer district there.

LEG. CARACCIOLO:

If the cost is too high for the homeowners.

COMMISSIONER BARTHA:

Right.

LEG. CARACCIOLO:

In other words, he's there to protect their interest. Okay. So petition authorizes the review and report, and then it's back in the hands of Legislature and the Executive to make a determination whether or not to create the district?

COMMISSIONER BARTHA:

Correct.

LEG. CARACCIOLO:

Okay. And where in this process is the issue addressed as far as the board of taxpayer interest? In other words, since you're creating a separate district, it doesn't impact anybody else except these homeowners in these 236 units.

COMMISSIONER BARTHA:

Unless you viewed it that draw of money from the Assessment Stabilization Fund is diluting the value of it to the rest of the sewer districts in the county.

LEG. CARACCIOLO:

Okay. Given the size and the cost of operating this particular facility, what does that 3% equate

to?

COMMISSIONER BARTHA:

It's a very small amount.

LEG. CARACCIOLO:

Okay. It wouldn't be a large number?

COMMISSIONER BARTHA:

Correct.

LEG. CARACCIOLO:

Okay. Now, does it require a vote by the Homeowner's Association subsequent to Legislative action? In other words, we just can't create on their behalf without, I imagine, the homeowners voting.

MR. WRIGHT:

No. The State Comptroller's application has to have that information in there. And if it isn't 100% of everybody, real property owners, within that area, then it might have to have a permissive referendum.

LEG. CARACCIOLO:

And who vote on that permissive referendum?

MR. WRIGHT:

The people that are in that development.

LEG. CARACCIOLO:

So everyone that's a property owner in that development?

MR. WRIGHT:

Yes.

LEG. CARACCIOLO:

And that would require 100%?

MR. WRIGHT:

Well, if you don't get 100%, then you would have to have the permissive referendum.

LEG. CARACCIOLO:

And then it's the majority?

MR. WRIGHT:

Yes.

LEG. CARACCIOLO:

Okay. Thank you very much. Thank you, Mr. Chairman.

CHAIRMAN BINDER:

Any other questions from the committee? If not, thank you very much for coming.

LEG. KENNEDY:

Mr. Chair, just one quick question, because one the sewer district, as a matter of fact, is actually in my district. Ben, I'm going to ask one more time just from what Legislator Caracciolo asked about the 100% compliance or •• I guess, you know, how is that manifested? How do we know that every unit owner is saying they do want to go ahead and go forward with creation of a district; so they sign a writing or it is an actual vote or what?

MR. WRIGHT:

Homeowner's Association ••

LEG. KENNEDY:

Gives a representation on behalf of all of the owners?

MR. WRIGHT:

Yes. Yes. In fact, I know at Country Point, which you've involved with, I think their own association rules say they need 80%, but that's not sufficient enough for the Comptroller's Office. So, you know, they have to solicit that information from each real property owner in the development.

LEG. KENNEDY:

And that's going to come subsequent to the report that you're going through right now as far as what would be entailed in creation of the district there, then the board itself actually vets or reads or views that report?

MR. WRIGHT:

We would write the report first, because that would give them the information on whether or not they were in favor of it, so it wouldn't be included in that report. It would be included in the applications to the State Comptroller.

LEG. KENNEDY:

Okay. And then the State Comptroller does the cost aspect, it comes back, we give that to the Homeowner's Association, and then ultimately they make this decision?

MR. WRIGHT:

They would make that decision as part of the public hearing process or the permissive referendum, and that would be with the application that goes to the Comptroller's Office. Once the Comptroller issues an order, if it's to accept that they can't afford it, then the Legislature need to do an adopting resolution accepting the Comptroller's order. And at that point, then it's just a matter of paperwork, deeds, insurance, etcetera.

LEG. KENNEDY:

Okay.

LEG. CARACCIOLO:

One final question.

CHAIRMAN BINDER:

Legislator Caracciolo.

LEG. CARACCIOLO:

Thank you. Just a follow up on that Q and A by Legislator Kennedy. Is there any certification with regard to that 100%, you know, property owner approval, or is it just a representation on the part of the HOA? Does anybody have to certify in writing that, you know, it was 100% acceptance on creating the sewer district?

MR. WRIGHT:

I really can't answer that without the County Attorney's Office, you know, saying whether it has to be certification, because with the new rules of the State Comptroller, we haven't submitted an application for a number of years. And, you know, that clarification should really come from the County Attorney's Office.

LEG. CARACCIOLO:

That to me would be very important. In other words, if you typically have in some of these communities second homeowners who may not even be aware of when this issue comes to fruition and someone else represents that they were in favor of it or they didn't say no, that could be problematic and result in, you know, legal action that we don't want to get ourselves ensnared in.

MR. WRIGHT:

Discussing this Country Point representatives, they indicated they weren't even aware there was a Sewer Agency contract that was attached to the purchase of their property. They were more interested in getting into the unit rather than, you know, going through all those details. So the lawyer may have been aware of it, but it's something that they recalled.

LEG. CARACCIOLO:

Maybe Legislative Counsel could research that for us.

COMMISSIONER BARTHA:

You don't need the unanimous consent of everyone in the district.

LEG. CARACCIOLO:

You do not?

COMMISSIONER BARTHA:

You do not. That's one way of doing it that expedites the process.

LEG. CARACCIOLO:

There's no statutory requirement for 100% approval?

MR. WRIGHT:

I'll say it's an opinion, but maybe not a not legal opinion from the County Attorney on the formation of a recent sewer district up in Mount Sinai was that depending on the type of development and who owned the property at the time, if you didn't have 100%, you would have

to have a permissive referendum.

LEG. CARACCIOLO:

Okay. Counsel, could clear that up for us I'm sure. Thank you very much.

LEG. KENNEDY:

And I'm going to ask if I can go into just one more quick question.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

I'm curious, obviously, I mean, with Country Point just because that's the district I'm sponsoring, and I'm curious. When they say they were unaware that there was a Sewer Agency contract in place, I don't understand what that means. In other words, an option that they could go from the privately operated sewer •• sewer operation to become a County Sewer District?

MR. WRIGHT:

Yes. That agreement that the County initially made with the developer should have been a part of every property that was sold for that development. And we assume that it was and that the attorney for the homebuyer, you know, was aware of it and likely mentioned it to them, but they

weren't as interested in something that could happen in the future. They were more interested in getting into their units.

LEG. KENNEDY:

Okay. All right. Thank you. In other words, you are continuing to have some dialog and contact with them as far as going forward?

MR. WRIGHT:

Yes. We've scheduled inspections, which we have many disciplines go to the facility, mechanical, electrical, engineering to review it in order to prepare the report.

LEG. KENNEDY:

Thank you. Thank you.

COMMISSIONER BARTHA:

Thank you. All right. Thank you for coming. I appreciate the Health Department coming down to the Public Works meeting. I have two things, I have a public hearing, then we have cards. Is there anyone here to speak on **Public Hearing, approving amended Cross Bay Ferry License for Bay Shore Ferry, Inc, 1323**. Let me see if I have anyone specifically on that. George Hafele.

MS. SULLIVAN:

Mr. Chairman, affidavits of publications are all in order for this public hearing.

CHAIRMAN BINDER:

Thank you. So we will open up the public hearing on IR 1323. And the first person to speak, George Hafele.

MR. HAFELE:

Thank you, Mr. Chairman. My name is George Hafele, I'm the President of Fire Island Ferries and Fire Island Water Taxi in Bay Shore. I'm here to speak on IR 1323, which is an amended license for Bay Shore Ferry Company, a company which I do not represent. Bay Shore Ferry has entered into an agreement with Fire Island Ferries and Fire Island Water Taxi to provide service as their license reads. Fire Island Ferries and Fire Island Water Taxi would take their over ferry service agreement with the community of Robins Rest.

I know we have a lot of work in front of us in terms of adding this to Fire Island Ferries' license and bringing in the vessels that are required. The reason I'm here today is to explain to you that the license kicks in on May 15th. Fire Island Ferries is willing and able to provide the service starting May 15th. However, the license is in the name of Bay Shore Ferry. Bay Shore Ferry has indicated an unwillingness to start service this year, and I have to come to ask the committee if it's possible for Fire Island Ferries to provide the service to the community of Robins Rest so that the people of the community are not without ferry service this spring.

LEG. CARPENTER:

Certainly Robins Rest is part of my Legislative District, and it's an area that there is no way to get to without that service. And it's •• the water not as deep, so you're very limited in the kind of boats you can pull in there. So the fact that Fire Island Ferries is willing to come forward and

provide the service to the community is something I am very much prepared to support as a Legislator representing the area and would hope that everyone would join me in helping us get to that point as expeditiously as possible.

CHAIRMAN BINDER:

I have to ask Counsel, if I could, on how that ••

MS. KNAPP:

The concern that drove this resolution, just so everyone is very clear on it, is because the Legislature received a letter from •• which withdraw its consent •• I'm sorry, Flynn's Casino withdrew its consent to land. And, you know, the law requires that a ferry have a consent to land as part of its license.

CHAIRMAN BINDER:

It's always a good thing for them to be able to stop somewhere.

MR. HAFELE:

But it's happened in the past where that consent was not granted. I understand the reason for the public hearing, but my reason for being here is for you to understand that Bay Shore Ferry no longer wishes to exist as a ferry company. As far as the service to Flynn's, that service is already •• or service to the community of Ocean Bay Park and to Flynn's as well, Fire Island Ferries and Fire Island Terminal are operating ferry service there now. So this would •• it would become a moot point if Bay Shore Ferry no longer was to be in business, and Mr. Hurley has certainly made that be known that he does not wish to be in service any longer.

CHAIRMAN BINDER:

Let me ask Counsel. I'm looking at a resolution that says approving amended Cross Bay Ferry License for Bay Shore Ferry. If they're not in business or don't wish to be in business, we're approving •• we're approving a license with a title on a bill specifically for them.

MS. KNAPP:

Just so that I have it entirely clear in my head. Bay Shore Ferry was granted a five year license to operate in 2003, and it was amended in 2004. All this resolution does is amend that license so that legally he does not •• he does no longer have the right to land where his consent has been withdrawn, that is Flynn's Casino. I mean, this is not at the request of anyone other than the law requires it. So I'm not quite sure if I understand what Mr. Hafele is asking.

LEG. CARPENTER:

I think that •• Mr. Hafele had contacted me to let me know what was going on with all of this, and because this is new territory for us, I suggested because this is the committee with the jurisdiction that he come down to the committee and let us know, you know, what was going on so that we could assist in trying to make sure that the ferry service to this community of Robins Rest was not interrupted at all when people were coming back into their homes and expecting to be able to be transported over to Robins Rest, that they could •• you know, that that could happen.

There have been instances in the past where, you know, people would transport people back and forth without the necessary approvals, and this has not been the history for Fire Island Ferries. And in the interest of full disclosure and wanting to do the right thing, they contacted me. So I

suggested that come here so that we can assist them. But I don't think he's specifically speaking to this issue of this public hearing, because this is something, again, as Counsel said, is instituted in reaction, in response, to the letter that we received from Flynn's saying that they were withdrawing their consent to land. So it's just, you know, making the license conform with what's reality.

CHAIRMAN BINDER:

The only •• and that's all well and good. I guess my question is ••

LEG. CARPENTER:

Now what?

CHAIRMAN BINDER:

Now what is a good way to put it.

MR. HAFELE:

That's my question too.

CHAIRMAN BINDER:

Now what? But especially if we have company that's not wanting to be in •• I understand we're making an amendment to this, but we're being informed that the company no longer wants to be

in service, and we could lose •• that could happen very soon. I mean, what kind of timing are we looking at.

LEG. CARPENTER:

I know they have contacted Kevin, who is our ferry whiz here.

MR. DUFFY:

On Friday, I spoke with Mr. Hurley, and I said to him that they were having a public hearing today to amend his license to delete Ocean Bay Park as one of his stops. He indicated to me that he did not intend to be here and he did not intend to carry on with his ferry business. He told me that he was having discussions with Fire Island Ferry and that he was going to be selling them his boat and that he was also going to be leasing space to them. I told him he should be here, and I asked him to notify me in writing of his intention not to continue with his license, I have not yet received anything.

CHAIRMAN BINDER:

Here's the thing I would say also. If we were to go •• just trying to think this out as to how this works. If we pass this today, and if I don't know why Flynn's Casino doesn't want to allow, but if, let's say, Flynn's Casino would allow whoever the successor group is, it could be maybe an issue that they had with Bay Shore Ferry itself.

MR. HAFELE:

Mr. Chairman, we have an agreement with Flynn's Casino as Fire Island Water Taxi to fully utilize their facilities on the island. So there would be no service disruption to Ocean Bay Park if Mr.

Hurley decided to stay in business or if he decided to go out of business.

CHAIRMAN BINDER:

Let me ask then, counsel, just so I understand. Bay Shore Ferry has a specific run. Can someone else do this run with a license •• in other words, if we were to •• if we were to amend this, this particular license, in a sense that it takes out their ability to make this particular run, so though •• and I'm just concerned, so it's something to think about, though Fire Island Ferries has the ability to go to Flynns, if they are fulfilling contract, if, if, this license, under this license, we were to say that they're not allowed to, we're actually taking that out of the license. As separately they have •• Fire Island Ferries has the ability to use it, but under this license they wouldn't. I just want to make sure that by passing this •• I just technically want to make sure that by passing this we wouldn't inhibit their ability if they took over the contract and the leases and the boat and the whole thing, if they took over Bay Shore Ferry's operation, that they wouldn't be •• on this particular route, under this particular license, be prohibited from using it because they don't have an agreement from us to use Flynns though Fire Island Ferries on their other contract and other licenses have the ability to use Flynns. So I just want to make sure that we're not making a bad move that •• and maybe we shouldn't be doing this today, and this might not •• I mean, at least maybe we should table this and get more information.

LEG. CARPENTER:

This is just a public hearing.

CHAIRMAN BINDER:

I understand it's a public hearing. But I'm just saying maybe we should keep this until we understand exactly what's happening and not interfere with this route.

MS. KNAPP:

Certainly you don't have to close this public hearing today. As I said, this resolution was a response to the withdrawal of consent. Now, that having been said, I just want to clear two things; one, it appears that under the water taxi business you can go to Flynn's.

MR. HAFELE:

Correct.

MS. KNAPP:

But more importantly, Fire Island Ferry, am I right, because sometimes I get the names confused? Fire Island Ferry does have a license, is a licensed ferry service. We could amend Fire Island Ferries' license service to reflect whatever the new service Fire Island Ferry will be performing. I think that we do need to eventually clear up the status of Bay Shore Ferry, and I believe that the request that was made for Bay Shore Ferry to advise the Legislature as to what it's going to do with the remainder of its route, it's vital. Because if they're going to be out of business, then clearly whatever •• whatever stops they've been servicing need to be serviced by some other ferry company. Just go back to Robins Rest. Robins Rest obviously is still a part of their route. Are you telling me that they're just completely going out of business, they're not going to be operating any ferry service?

MR. HAFELE:

Mr. Hurley has demonstrated an unwillingness to go back into business. He has sold us, Fire Island Ferries, he has sold us the one vessel that he has ••

CHAIRMAN BINDER:

That would make it hard for him to go back into business.

MR. HAFELE:

And we would provide the service as he is supposed to be providing under his license. Now, obviously, we cannot operate under his license, we understand that. I will be coming in for a license amendment to Fire Island Ferries, I will be adding that vessel to Fire Island Ferries schedule of vessels along with a couple of water taxis being added to Fire Island Ferries. Those are •• the small boats are what we need to provide service to Robins Rest, because it's a difficult community to service because the water is too shallow to get a regular sized boat.

MS. KNAPP:

Are you planning on •• Mr. Hafele, are you making that application to amend your license very soon?

MR. HAFELE:

I will start tomorrow morning. The reason I'm here is to inform the committee of exactly what we're doing and how we're going about it. For me to have to wait three months to get a resolution passed, puts us well past the season when we should be providing that service to Robins Rest. So I will beg to allow us to do this in as quick a fashion as we possibly can. But I will be back here tomorrow morning, I will meet with Mr. Duffy, I will meet with the Clerk's Office, and we will attempt to move this forward as quickly as possible.

CHAIRMAN BINDER:

Okay. Thank you.

MR. HAFELE:

Thank you very much.

CHAIRMAN BINDER:

I make a motion to recess. There's a question. We can probably close it and not act on it and table it, but the reason I would •• the reason I would recess it is because we might need more hearings on this when they come in and they might want to speak on this under a hearing. And I would just keep it open.

LEG. FOLEY:

Motion to recess.

CHAIRMAN BINDER:

Motion to recess by Legislator Foley, seconded by myself. All in favor? Opposed? **1323 is recessed two weeks.**

LEG. FOLEY:

Mr. Chairman.

LEG. VILORIA • FISHER:

Because there concern that this is a seasonal issue.

CHAIRMAN BINDER:

Absolutely.

LEG. FOLEY:

Mr. Chairman. If we can just ask through Mr. Duffy, are there any requirements on the part of the any license holder that a simple phone call is not sufficient? Aren't they supposed to the write to the County making the County aware officially that they're in essence surrendering their license?

MR. DUFFY:

When I spoke with Mr. Hurley on last Friday, I requested that he do that. In looking at Section 287, I don't see or don't recall seeing any provision that specifically requires them to notify us in writing, but I requested him to do it.

LEG. FOLEY:

Through the Chair, what requirements are there for this very unusual situation?

MR. DUFFY:

This is kind of a unique situation. We've never had an operator tell us that he was no longer going to operate.

LEG. FOLEY:

Some of us have foreseen this day. I'll say that on the record.

LEG. CARPENTER:

I'll ditto it.

LEG. FOLEY:

But at any rate, thank you, Mr. Chairman.

LEG. CARPENTER:

Can I ask a question, too? If a ferry company adds a boat, do they •• we don't need to engender a whole process with a resolution, do we?

MR. DUFFY:

It would depend •• if they were attempting to •• I would defer to Counsel, but my understanding would be that if the company coming in already has established rates and is just merely seeking to amend its license, I would believe they would need some type of public hearing amending the license, then the Legislature then could act and amend that license to fulfill the new requirements or addition of boats or addition of a stop. The only problem that would occur is that if they're seeking to establish or alter a rate, then the Budget Review Office would have to do a report, which is a 45 day time frame.

LEG. CARPENTER:

Right. Well, I'm concerned about the fact the summer season is upon us, that people are expecting to be able to get back and forth to Robins Rest come May 15th, when traditionally service is commenced. Today it's May 10th. How do we get to that point? How do we •• you know, would it be sufficient for the ferry company to, you know, file with the Clerk of the Legislature and the Budget Review Office and yourself who oversees these ferries to tell them that, you know, the situation exists, they are in a position to provide this needed service to this community, and they are going to be following through with the procedures to formally amend their license to indicate they have this additional vessel now and will be servicing this community? You know, how do we get there, because we only have five days?

MR. DUFFY:

I would defer to Counsel, but my opinion would be ••

LEG. CARPENTER:

Mea, what do you think?

MS. KNAPP:

These are all local laws as opposed to resolutions that govern the ferry service, Chapter 287 are all local laws. The amendment of license does require a public hearing. We have in the past held public hearings on very short notice.

CHAIRMAN BINDER:

Can we do it at the next Legislative meeting?

LEG. CARPENTER:

Which is already two days after. And what about, you know, Legislator Binder's suggestion that we recess the hearing? Can this hearing that addresses that particular boat, really, because this is the only boat that this ferry company had ••

CHAIRMAN BINDER:

The question is can this be the vehicle •• I hate to put it that way •• for going forward with a public hearing and then get a CN to replace, let's say, a lot of the wording in 1323, we'd still have legislation and maybe on Tuesday have a CN?

LEG. CARPENTER:

I'm being selfish. I'm the one that going to get the phone call that says, "Suffolk County isn't allowing us to go to our home in Robins Rest." You know, really we're going to be the culprits.

MS. KNAPP:

Perhaps just in order to keep as many options open as possible, this public hearing recessed until the Tuesday meeting, and in the interim, I will explore some of the options.

LEG. CARPENTER:

And the fact that it's a weekday will be helpful, although the 15th is Sunday, and that's going to be a little bit problematic. But maybe you can take them to Fair Harbor or wherever and then water taxi them over to Robins Rest.

MR. HAFELE:

Yes.

LEG. CARPENTER:

Okay. So there is a way to kind of get them there in a round•about way knowing that we're addressing this.

CHAIRMAN BINDER:

Let's make a motion to reconsider the recess motion and then we'll make it specific, seconded by Legislator Foley. All in favor? Opposed? Reconsidering is before us. Legislator Foley is going to amend his motion.

LEG. FOLEY:

Motion to recess until the General Meeting on the 17th.

LEG. CARPENTER:

I second that motion.

CHAIRMAN BINDER:

All those in favor? Opposed? That's approved. So this is only **RECESSED** to that meeting.
(VOTE: 5•0•0•1) (Not present; Legis. O'Leary) We'll see how this works out. In the mean time, there's some work to do.

LEG. CARPENTER:

Is the County Attorney's Office here?

MS. KNAPP:

Yes, Jackie is here.

LEG. CARPENTER:

Good. So perhaps you can work with them.

MS. KNAPP:

We have another problem. This is just •• there are a number of problems that come to mind, but amended copy deadline was five o'clock yesterday.

LEG. CARPENTER:

It doesn't matter. It's 12 votes for a ferry license amendment, it's 12 votes for a CN. This is a CN material for sure.

CHAIRMAN BINDER:

If this is not a necessity, I don't know what is. I mean, this needs to be done.

LEG. FOLEY:

As much as we like to honor the time frame, but it's almost of an emergency basis, because to get to the heart of the matter, it's about the disruption of service, which we're empowered to provide to those who wish to access the barrier beach, and I think that's the first order of business is to ensure that there is no disruption of service. So then question becomes how can we do that in the most expeditious and transparent of ways as opposed to going through full 45 or 60 days. It's impractical and also •• well, number one, impractical, but secondly, it could also be an issue of safety. If in fact, they get to that beach, you know, how does one access it, and how does one leave it? So hopefully we can do this in a much quicker fashion than the usual route given the late notice by the former license holder that he's no longer going to provide service. So it really is in some respects an emergency situation. And I think that triggers a whole, a more expeditious process that needs to be followed in order to have the service in place

by the busy season, which for all intents and purposes starts this month.

LEG. CARPENTER:

Also, too, just for everyone's edification, the driving restrictions kick in May 15th. So those people that live there year-round who are no longer able to drive their vehicles are expecting that they are going to be able to come on and off the island on the ferries, so it compounds it. And it's so ironic, because the person that kind of got us to this point was probably operating for a quite a bit of time without a license. And here we have someone who wants to do it the right way, so hopefully we will be able to accomplish that.

LEG. KENNEDY:

Mr. Chair. One quick question as to a housekeeping item. Obviously, the focus and the importance is on providing the service, but since this gentleman has given us this oral representation, are we going to do something to actually, like, notify him that we deem him to have abandoned this license or renounced it somehow? Don't we have an obligation to kind of, like, notice him back somehow?

CHAIRMAN BINDER:

Something in paper, and then this way, he wouldn't be able to operate. Well, he doesn't even have a boat, so.

CHAIRMAN BINDER:

This was he can't sell the license to someone else.

MS. KNAPP:

I would just ask whether or not in your conversation, Mr. Duffy, when you spoke with •• when you spoke with the operator, did he indicate that he was going to write back and relinquish his license?

MR. DUFFY:

I asked him to, and he was kind of evasive about. He said that the Legislature should just take the resolution that's on the table and amend it to terminate his license. I said, "You know, I need something •• you should send us something in writing or else be here."

MS. KNAPP:

I do think that we do have procedure for certainly revoking a license. However, it would be better if given his clear intention not to continue to provide service, that he voluntarily relinquish it, and thereby save himself from any particular penalty that he might suffer.

MR. DUFFY:

So you're asking that I should him again, tell him write he should write us that he is voluntarily relinquishing •• okay. I'll write him, yes.

MS. KNAPP:

Do both. We will do both.

LEG. CARPENTER:

Thank you.

CHAIRMAN BINDER:

Thank you. This whole thing has been an unfortunate affair because we had this very owner here over and over again, you know, screaming, yelling and telling us how we were doing him wrong. And then finally, we gave in, all right, all right already, please stop saying we're doing you wrong, we'll work it out with you. We work it out with him, and he takes off. I have to say there were Legislators from the area who were absolutely on target with this from the beginning. So, yes, you can take your little bow, Legislator Carpenter and Legislator Foley. So we have this recessed and we'll see what happens between now and Tuesday night. Maybe we'll have a CN and at worst ••

LEG. CARPENTER:

Night. Do you know something I don't know?

CHAIRMAN BINDER:

If you think this is going to be done before Tuesday night •• well it will be Tuesday 2:30, right? So 2:30, and by the time we get to this ••

LEG. CARPENTER:

It's a day meeting.

CHAIRMAN BINDER:

It's a day meeting, but the public hearings are not until 2:30, and there are a number of public hearings. By the time we get to it, it could be ••

LEG. CARPENTER:

All right.

CHAIRMAN BINDER:

Okay. I have some cards. Let me bring up the •• do the cards, then we'll go to the agenda. First, Laurie Kaye, Calverton Hills Homeowner's Association. Come on down. You're the next speaker on the Public Works •• have a seat and just tell us what we should do.

MS. KAYE:

You asked for it. Okay. My name is Laurie Kaye, I am the Secretary at the Board of Trustees at the Calverton Hills Homeowner's Association at Calverton Hills. As I was requested by Legislator Caracciolo to come down and address you regarding our sewage treatment plant. I did, of course, get the information that the gentleman provided regarding a sewer treatment district in our area.

As you know, we are 236 town homes. Our sewage treatment plant, the problem is not just the

upkeep of the plant, which we, of course, have budgeted for over the past 30 years and have maintained the plant, as the gentleman said, in a satisfactory manner. But we have been told that due to some changes in the law about removing nitrates from the sewage treatment waters, there's a threshold amount, if you use over a certain amount of gallons of water, you have to be able to remove X percentage, and I'm sorry, I don't know those numbers, of nitrates from the water. We are like on the border of not being able to do that. Our usage has increased. If our usage goes over this point, we will not be able to be in compliance with this law.

So we were told we needed to rebuild our sewage treatment plant, that's where the problem comes in. The price that was estimates to us is

\$3.2 million. Our community is primarily lower income, some middle income, a lot of Section Eight rental units, a lot of elderly and disabled people living on fixed incomes. It is almost impossible for community to raise an amount of money equal to approximately \$3 million.

CHAIRMAN BINDER:

How many apartments are there, or units?

MS. KAYE:

236.

CHAIRMAN BINDER:

Let's say it is impossible, not almost.

MS. KAYE:

It is impossible unless those few units that are owned by businesses would like to chip a little bit extra for everybody, which would be •• one of two things will happen; it will either be in noncompliance with the law and thereby polluting the Pine Barrens, probably not in the best interest for any of us. The other problem will be that many people will have to leave their homes, they will have to sell homes if we actually had to come up with, you know, some sort of assessment.

CHAIRMAN BINDER:

An average •• I'm trying to think •• probably, what, 3,000 •• no, about two and a half thousand dollars.

MS. KAYE:

2633, I think is what we had come up with.

CHAIRMAN BINDER:

Right. Okay. Higher for some, lower for others depending on the size.

MS. KAYE:

We actually •• everyone pays the same assessment across the board.

CHAIRMAN BINDER:

Okay. So that's 2600 a piece. And you are saying most will not be in any way be able to.

MS. KAYE:

They will have to leave their homes. You know, most could not afford even to, like, refinance their homes, because there are so many on fixed incomes.

CHAIRMAN BINDER:

And there's not a financing mechanism so that people can pay that over time based on an assessment?

MS. KAYE:

We don't have those types of finances available to us at the association. Our reserve fund is maybe \$100,000. So if it was a smaller assessment, we could take it from our reserve and finance it ourselves. We did look into financing it through someone else, but then it's over 30 years they wanted it, and then everyone's assessment each month would have to go to them. And that would •• again, they would have to pay two payments; their regular Homeowner Association payments and a payment towards this. And our concern is that most of the people living there would not be able to afford it.

CHAIRMAN BINDER:

Do you know what the average payment would be for that assessment, because obviously,

coming up with 2600 is a lot different than coming up with a monthly...

MS. KAYE:

I don't recall offhand, but it was in the neighborhood of like \$200 or something from everyone, because once you add in, of course, finance charges over 30 years, just like any of us with mortgages would know, you know, it's not the same as just taking that amount and dividing it. So it's a prorated amount. And that's where the problem comes in, that there's not the funds available to do the work and also maintain the community without losing a great deal of people that are currently residing in our community. So that was the information that I wanted to pass on to the committee. Thank you.

CHAIRMAN BINDER:

Thank you very much for coming.

MS. KAYE:

Thank you very much for hearing us.

CHAIRMAN BINDER:

You caught the conversation before with Legislator Caracciolo, you were here for that.

MS. KAYE:

Yes. Thank you.

CHAIRMAN BINDER:

Okay next card is John Lund.

MR. LUND:

My name is John Lund, L•u•n•d. I represent the Property Owner's Association at Davis Park, Fire Island and have been their president for ten years. We have approximately 80% membership in that organization of 282 homes.

I'm here to speak with regard to the authorization to alter •• alteration of rates to Davis Park Ferry, that's 2128•04. This has been before you or something similar has been before you for about year and a half. We've run into a number of pit falls, I guess. And I wrote a letter to the • to the committee and to the Legislature last week stating that we are not opposing the rate structure. Budget Review has worked diligently to go over this. The rates seem to be in line with the other ferry operations that are working the Great South Bay.

The points that Budget Review brought up in their analysis, I think, I answered some of the questions there. We are in favor getting this completed ASAP. We did note last week that there is a problem with the calender in that the resolution went on the table 11/16/04 and will be expiring on 5/16/05, one day before the completion of the public hearing next Tuesday. So we are asking •• we are involved in another ferry boat emergency situation. We want to get this done for the summer. As Legislator Carpenter mentioned, the driving regulations change on May 15th. Davis Park is involved in some of that also. We need the increased ferry service. The profit and loss statements for the past two years show a loss at the ferry company, and we are worried about curtailed service possibly this summer and fall.

We're just asking for anything you can do to get this out of committee, to the Legislature. And, I think, obviously, they are going to end up with the rate. Budget Review, I think, has some stipulations or has some suggestions that would probably make it a better operation, and we would work with •• our organization would work with Suffolk County, the ferry company and the Town of Brookhaven to help get that done.

CHAIRMAN BINDER:

We recessed this hearing to the General Meeting, the next General Meeting. So if that's closed, it can be discharged from committee. That will take 12 votes, because whenever you •• according to the rules, when we close something •• the meeting that we close it at takes 12 votes to bring it. So if there 12 votes, which I think there are from my gathering and talking to members, I think the 12 votes will be there. We have to table it today, because it's recessed, you know, to the full Legislature. But if that gets closed, it looks like it's going to pass on Tuesday. We should be okay.

MR. LUND:

Thank you.

CHAIRMAN BINDER:

If that allays your fears. It's always good to come down and check it out and talk to us even on the night we're voting or come down to the public hearing part of the. Just make sure everyone understands that.

MR. LUND:

Tuesday afternoon, 2:30.

CHAIRMAN BINDER:

At Riverhead, not here.

LEG. CARPENTER:

It would be important too to demonstrate that all of the recommendations that the Budget Review Office has made that the ferry company is willing to embrace all of the recommendations and suggestions. So if they can be down there or that we have something in writing saying, you know •• you know, something to that effect, it will be helpful in those Legislators who might not be as familiar with it that are just going by what Budget Review has said in their report, because there have been some concerns raised about some of the comments that BRO made. And I know that from discussions with you and things that I have read that they are willing to adopt these new procedures.

MR. LUND:

It's my feeling they are. They have the same copy of the letter, they have seen that and commented on it, then it went to the Legislature and the committee. So I'm assuming they are willing to ••

LEG. CARPENTER:

But, again, that's my point. John, I know that you're saying that and understand it and I also understand it, but I think for everyone else, because we are going to need 12 votes, it's not just a simple 10, that we have something that demonstrates that they are in fact going to go forward with the recommendation of Budget Review.

MR. LUND:

Okay.

CHAIRMAN BINDER:

Right. Otherwise there could be concern. I don't know if you've ever seen rolling thunder in the Legislature. One person goes, well, I don't know, well, this doesn't sound right, well, they're not here, and all of a sudden it just kind of rolls, and that's a danger. So I would listen closely to the advice of Legislator Carpenter. She's been here long enough to see that happen.

MR. LUND:

Okay.

CHAIRMAN BINDER:

Thank you. Walter Beck is last card I have, Walter Beck, Esquire, Davis Park Ferry Company.

MR. BECK:

Thank you, Mr. Chairman, for your introduction. I am the attorney for the Davis Park Ferry Company, and I'm here today to urge the discharging of this resolution out of committee, because the •• we agree with Mr. Lund's characterization of things, and we appreciate his being here to say what he said. But the need for an increase in the rates in the ferry company is dire, and it is so because they have not had an increase since 1996, that's a long time. So there is sort of an emergency situation that it get approved so that they can have healthy •• hopefully with the weather and the other variables that they can have a healthy season in 2004 and be able to maintain the high quality of service that people are used to from the company.

CHAIRMAN BINDER:

I think the question that Legislator Carpenter raises is the question of adherence to the issues raised by Budget Review.

MR. BECK:

Well, we were in receipt, of course, of the Budget Review report. And many things of the things in that report are, we feel, noncontroversial, it's easy for us to make adjustments and work with them on that. The one issue that arises though where I don't want there to be any misunderstanding is the issue of cash controls is raised. And we have been taken the position in discussions with Mr. Duffy and in writing as well that we have a good cash control system, it's verifiable, and that the proposal •• if the Budget Review Office report is read to suggest that we go to tremendous expense to in some way assure what they see as a cash control necessity, the ferry company is really not in a position to do. So we produced documents to Budget Review that dealt with cash controls and showed that our cash is accountable under deposits, match cash and ridership. And the CPA who issued his audited •• certified audited statement, made a comment in his report that cash controls were adequate. So except for that issue, I don't think there are any serious difficulties in compliance with the suggestions and recommendations of BRO. But on that one issue that I raised, it's an issue that I certainly don't want to have any misunderstanding about it or difficulty about it, but the company is in no position to expend huge sums of money in order to provide some sort of an additional cash control mechanism when they

don't •• in our view, they don't need it and that their cash controls are good and can be verified.

CHAIRMAN BINDER:

I would just ask Mr. Duffy, this is going to come out on the floor anyway, so we might as well as ask now.

MR. DUFFY:

Sure. What our concern was is that we were not able to reconcile the revenue to the ridership. I have spoken with the independent accountant who did the certified audit, and they did not do that either. Cash controls became a big issue after ten years ago. I cannot speak for Jim Spero, but I will discuss it with him, but what we looked at and what we know is that Mr. Beck and the Shermans have indicated a willingness to work with us. And we are interested in having a cash control system that is not really based more on family, because it's a family business and family members are in all important cash control spots.

What we're looking for and what we've required other ferry companies to do is come to a level that we have a level of comfort with the cash control system. What we have with Davis Park, because of the situation, and we expedited our report so it would be ready in the time for the 17th, is that they come back, I believe, it's next year to renew their license. I will speak with Mr. Spero, but what he and I had discussed previously is that, you know, some system will be in place. And we at that point when the license is up for renewal can see how they're operating, which similarly we had Fire Island Water Taxi that when they came here last year, their system needed to be tweaked, and they are tweaking it now. And all we're requiring of them or what we suggested in our report is that when the new system is installed we want to go out and look at it and make sure it now meets our requirements.

CHAIRMAN BINDER:

One more question. What would the cost be involved for them to make BRO comfortable with their cash control system, do you estimate the cost to them to do this?

MR. DUFFY:

I really wouldn't be able to estimate. I can tell you what has happened •• what occurred with Fire Island Ferry ten years ago, I know they spent like \$60,000 to install a cash control system. I know Sayville Ferry, they were given a rate increase conditional upon them installing new cash controls, and I believe they spent somewhere near \$80,000. But what the Legislature needs in its fiduciary responsibility is we need a level of comfort that we feel that the decisions you're making are informed decisions, that a third independent party would come to that same conclusion.

CHAIRMAN BINDER:

Right.

MR. BECK:

Work certainly believe, Mr. Chairman, that we can work with Budget Review to reach that level of control •• level of comfort, I should say with our cash control system. We thought that the materials we furnished to Budget Review tended to show that our cash controls were, in fact, verifiable. If Mr. Duffy finds inadequacies in it, we're perfectly willing to tweak it, as he said, to work with that office until they feel comfortable.

CHAIRMAN BINDER:

The next question, would it be •• is it tweaking or is it going to •• for you to feel comfortable, do they need a system, do they need a 60, \$80,000 system in there that •• well, short of that way, is there a way that you think that we can feel comfortable voting on this? They're getting an increase, granted an increase needed to keep them afloat, but beyond that, should they be investing in a system?

MR. DUFFY:

What I was saying is that at this point, and of course, this is subject to Jim Spero, I would say that we're in point where we need tweaking as opposed to major overhaul. If during the tweaking process we find that's not sufficient, we will have a second chance when they come back in 2006 to renew their license, and if at that point, you know, we feel we can't reach the level of comfort we need, at that point •• you know, this is forewarning, we would be looking at them to install something more sophisticated.

CHAIRMAN BINDER:

Legislator Carpenter.

LEG. CARPENTER:

Thank you. And, Mr. Beck, thank you for being so forthright. I think that was very helpful. And it will be important, are you being there on Tuesday?

MR. BECK:

Yes, ma'am, I am.

LEG. CARPENTER:

Okay. To your opening comments about you're imploring us to discharge, I think you must understand by now that we are not in a position legally to be able to discharge until that public hearing is closed, but that we can do it on the floor on Tuesday.

MR. BECK:

I knew that. I hope my comments taken were by you in that way. I know that that is the legal requirement.

LEG. CARPENTER:

Also too, to my comments about being able to answer the questions. As I said to Mr. Lund earlier, I think the fact that you are willing to demonstrate that you are going to be working closely or that the ferry company is going to be working closely with the Budget Review Office, the fact that Mr. Duffy has said that they feel that they can arrive at that comfort level, and that we have another opportunity when the license is up for renewable, so that there is that one year window to kind of right everything and, again, just be willing to be forthright. I think hopefully, we will be able to be successful on Tuesday.

MR. BECK:

You have our assurance on that. You know, I've worked with Kevin Duffy a lot on this, and he's an easy guy to work with, but he makes it clear what is needed. I certainly think working

together will be productive.

LEG. CARPENTER:

And that is important, and he is very professional. And I understand Mr. Duffy's comments too about having to check with the Director of BRO, Mr. Spero. But again, that dialog needs to take place. And also to the comment of the accountant, I guess it was, you said there were some figures that needed to be reconciled. Perhaps between now and Tuesday that can happen.

MR. DUFFY:

I would tend to think it will not be that simple to have it reconciled by Tuesday. But what we're saying is that since we have that year window, that we can make some suggestions ••

LEG. CARPENTER:

Well, at least we can demonstrate that you're working with them •• not you, but that they are working with you to, you know, come to that reconciliation.

MR. DUFFY:

Yes.

LEG. CARPENTER:

Okay. Thank you.

CHAIRMAN BINDER:

Legislator Foley.

LEG. FOLEY:

Thank you, Mr. Chairman. The words from Mr. Duffy and Walter were encouraging, and hopefully we can move forward so that we can put the price structure in place, and if further tweaking needs to occur, it can happen during the summer, but also, no later than the licensing review, which is next year anyhow. So hopefully we can move this forward. It's been a number of years since there's been an increase. And given particularly the increase in fuel costs, that is impacting on all modes of transportation and transportation services, I think combining those two points, it's more than •• than •• it's well earned, your proposal. In fact, BRO agrees with that particular approach.

And I believe the cash controls are something can be worked out. And I think just on the record, one of the major differences between requirements for cash control for this operation and ones out of Sayville and Bay Shore, a large consideration of the cash controls for the other two ports of call is the extensive amount of parking fields that are owned either directly by those other ferry operations or by affiliated companies. What's different about Davis Park Ferry is that there are no parking fields controlled or owned directly or indirectly by the ferry operation. In fact, they lease the property from the Town of Brookhaven. So again, the same level, the same kind of cash controls that should be required for other ferry operations is not quite the same here by virtue of the fact that the single largest concern of the cash controls in the other operations were the parking field, and here those parking fields are owned by the Parks Department of the Town of Brookhaven. Thank you.

MR. DUFFY:

Excuse me, Legislators Binder. One of the things that's contained in the current resolution that the Legislature may want to consider is that there is a cost of living adjustment provision in it that would allow the operator to increase its fares. Since 1988, the Legislature hasn't really looked favorably upon that. And ferry operators who came in and requested cost of living adjustments, their resolutions were amended to take that out. If the resolution that is passed or that's currently before you is passed, that would grant Davis Park Ferry that right. So I don't know if they're looking to have it adopted and that presents a problem to the Legislature, they may want to get a CN that takes that out.

CHAIRMAN BINDER:

That is historically not been something •• I don't know that the Legislature is going to want to set the precedent.

MR. BECK:

You mean, Mr. Chairman of granting that, you mean. We feel strongly in favor of it, but that's •• you know, I've stated my reasons in our petition.

CHAIRMAN BINDER:

I understand that. It's just something we have never done before, and I don't know that the Legislature is going to be prepared to make this the first.

MR. BECK:

If they're not, we certainly don't want that to defeat the remainder of the application. And whatever procedure could be used to pass it without that, we'd be happy to get it. We do feel strongly about it, but I know that reality is reality.

CHAIRMAN BINDER:

The timing question is going to be if we need a CN if this to be done by Tuesday.

LEG. CARPENTER:

Well, I would say that they want it done by Tuesday, especially that we've got the six month deadline thing kicking in. And the fact that the issue of the cash controls are not totally 100% resolved, I think it's like almost a given that in order for the application to pass on Tuesday or be successful, it's going to have to be absent the COLA provision. So I don't know if there's someone here from the County Exec's Office that can start the process to make sure that we do have that CN with the COLA provision exempted.

MS. KNAPP:

There are two alternatives. Given the fact that we have a true emergency in the first case and we will probably be asking for a CN on the amendments to that resolution should we be able to do all this, then a CN may be one avenue to pursue. The second avenue would be to make the motion to waive that 60 day rule, close the public hearing and then vote in two weeks on the adjustment to rates, and that would give us time to amend within •• within the rules. It's entirely up to County Executive and the Legislature.

LEG. CARPENTER:

Well, I certainly can't speak for the applicant, but I would imagine that two weeks is two weeks

and you'd rather have it done Tuesday rather than two weeks.

MR. BECK:

That's true, especially with Memorial Day Weekend approaching.

LEG. CARPENTER:

Exactly. And that's a big weekend.

MR. BECK:

Yes. Of course, I don't know if any increase ••

LEG. CARPENTER:

Especially if it's going to be very sunny and beautiful.

MR. BECK:

I'm sorry?

LEG. CARPENTER:

Especially if it's going to be very sunny and beautiful that weekend, a lot of people will be going over.

MR. BECK:

I don't know if any increase if granted could be put in place that quickly, but it would be nice if it could, and we certainly would try to. Can I bring up one other issue that I almost overlooked? In our petition, we listed a fare schedule for passenger fares and other types of fares for people. There was a typographical error in that list. However, the resolution before you has the correct figure for the item I'll bring to your attention in a moment. Our advertising for the public hearing had the correct figure in it, and the Office of Budget Review knew the correct figure and addressed the correct figure in its report. But in the petition that I filed, and I'm referring to the issue •• the item called 40 trip punch ticket. The 40 trip punch ticket in the petition said \$130, it really should have been 195.50. What I wanted to do was to submit my affirmation with exhibits if the committee wishes to receive it that documents the idea that this was just a typo and that everybody concerned; the public was notified, Budget Review, and the resolution put forth to the Legislature for consideration has the correct figures in it.

LEG. CARPENTER:

I think that kind of speak to the validity of going with a CN rather than ••

MS. KNAPP:

Can I just ask one question?

MR. BECK:

Sure.

MS. KNAPP:

The resolution that I have that I'm looking at in front of me, 195.50 is certainly there, but directly below it is \$130. I made the assumption •• it's the first page of the attachment, second page of the resolution. I made the assumption and I may be incorrect, that the 20 trip ticket is \$122, the 40 trip is 195.50, and the water taxi ten or less people is 130, is that not right?

MR. BECK:

That's right, Counselor. That's correct. I said the resolution is correct, but what was incorrect was our petition. And I didn't want in the works for somebody to say there's a discrepancy here that's unexplained, that's all. But I think in the key places, your resolution and the other places, it's stated correctly. I just wanted to leave this affirmation as a backup.

LEG. FOLEY:

Thank you.

CHAIRMAN BINDER:

I'm going to make a motion to table 2128, it's recessed on the floor.
We'll go right to agenda. Okay. Before we do 2128, we'll do 1126.

LEG. CARPENTER:

Motion.

CHAIRMAN BINDER:

We have a motion by Legislator Carpenter, seconded by myself. So we can let the east ender get to the East End. It's probably too late to miss the traffic, but we're trying to help. **1126, amending the Adopted 2005 Operating Budget to transfer funds from Fund 477, Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements within the Town of Southampton (SCHNEIDERMAN).**

Though you're not a member of the committee, why don't you on the record just really quickly say what the resolution is.

LEG. SCHNEIDERMAN:

It's what the 477 Fund is really set up to do, it's stormwater remediation to clean out pollutants before they enter our harbors. And it's a match with the Town of Southampton. It's a project that predates. It went through actually the Water Quality Committee some two years ago. It's recommended by the Peconic Estuary Committee. And it's a very good project.

CHAIRMAN BINDER:

We have a motion and a second. Is there any discussion? All those in favor? Opposed? 1126 is **approved. (VOTE: 5•0•0•1)**

(Not present; Legis. O'Leary)

LEG. SCHNEIDERMAN:

I have one other bill too.

CHAIRMAN BINDER:

1331, (to evaluate the feasibility of establishing a wind power turbine at County property in Yaphank). (SCHNEIDERMAN).

All right. We'll do that one too for the Legislator. It's East End cooperation. Motion by Legislator Carpenter, seconded by Legislator Vilorina•Fisher. Any comments? If not, all in favor.

LEG. FOLEY:

Just on the motion, Mr. Chair.

CHAIRMAN BINDER:

On the motion, Legislator Foley.

LEG. FOLEY:

Where •• what acreage out in Yaphank? Are we looking at the Yaphank farm, or where in Yaphank •• where on the Yaphank center grounds would it be located?

CHAIRMAN BINDER:

One's actually in your backyard, Legislator Foley.

LEG. SCHNEIDERMAN:

If I can invite Tom Williams also from Cornell Cooperative, because he can give you more details. Cornell Cooperative manages this farmland the County. But on an aerial that I don't have before me, basically between two of the farm areas, there's a narrow strip of land that runs perpendicular to the LIE at approximately Exit 66. And it would be in is that strip that potentially a wind turbine or potentially one of the wind turbines could be sited. This is not actually the siting of any wind turbines, it would look at what •• if this property had decent wind potential, you know, if the winds were adequate there and whether you had siting, whether you could tie it into the grid, the power grid, what the noise and aesthetic concerns might be. NYSERDA would pick up a third of the cost, LIPA would pick up a third of the cost and the County would pick up the remaining third. I think the bill calls for \$10,000, probably the real number will probably be more like 5000 for the County's contribution. Tom, did you want to •• is that correct in terms of the siting?

MR. WILLIAMS:

Yeah. The siting •• when the County •• when the Legislature put the farmland under preservation, there were some indications that there would be wind turbines placed there, so I believe that it is included in the farmland preservation bill that you passed about a year and a half ago. So those sites are dedicated, and they are on that north site. It's sort of a window that cuts the farmland in half, and it would be •• we thought it would be okay. We had talked about it as a opportunity also to put together an alternative energy educational program at the County farm. So we think it would not interfere to any great extent with the production there, and it would be okay.

LEG. FOLEY:

Just as follow up, Mr. Chairman. If there are no issues of visual concerns about ••

CHAIRMAN BINDER:

Not for a study.

LEG. FOLEY:

Well, I'm saying down the line. One or more turbines being ••

MR. WILLIAMS:

Well, it would be very visual. The aesthetics of it are sort of hard to read because just south of the railroad tracks •• this would be between the railroad tracks and the Expressway that I think they would be sighted. They would very visible from the Expressway, they would be very visible, because they would be in the field. On the other hand, I think there are a lot of Upstate places where they are in the middle of fields, they are very visible.

In some ways I think it might be •• they would be no more visually offensive, I think, than the power lines that run across the fields just to the south. And I think it would be something that people could look at and it could promote wind power and alternative energy. I think it would be an okay thing to do.

CHAIRMAN BINDER:

One of the resolve clauses takes that into account.

MR. WILLIAMS:

Excuse me?

CHAIRMAN BINDER:

One of the resolve clauses says you have to take aesthetics into account.

MR. WILLIAMS:

Yes. Yes.

LEG. SCHNEIDERMAN:

They can develop pewter models of what it would look like.

CHAIRMAN BINDER:

We have a motion and a second. All those in favor? Opposed?

1331 is **approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary)**

LEG. SCHNEIDERMAN:

Thank you.

LEG. CARPENTER:

Bye.

CHAIRMAN BINDER:

2128, authorization of alteration of rates for Davis Park Ferry Company. (PRESIDING OFFICER). Motion to table, seconded by Legislator Carpenter. All in favor? Opposed? 2128 is **tabled. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1071, approving rates established for Fire Island Ferry Water Taxi, LLC. (PRESIDING OFFICER)

LEG. CARPENTER:

Motion.

CHAIRMAN BINDER:

We have a motion to approve by Legislator Carpenter, seconded by Legislator Foley. Any comments? All those in favor? Opposed? 1071 is **approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1146, authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 3 • Southwest with the owner of Tilles Corporation Center East. (COUNTY EXEC)

CHAIRMAN BINDER:

I would just like to make a motion to table that just for one other meeting. It's a Huntington question. Seconded by Legislator Carpenter. All in favor? Opposed? 1146 is **tabled. (VOTE: 5 •0•0•1) (Not present; Legis. O'Leary).**

1288, to amend the Transportation Advisory Board. (FOLEY)

LEG. FOLEY:

Motion to approve, Mr. Chairman.

LEG. VILORIA • FISHER:

Second.

CHAIRMAN BINDER:

Okay. We have a motion and a second. Any comments?

LEG. VILORIA • FISHER:

He's just asking for an annual meeting.

LEG. KENNEDY:

Mr. Chair.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

Through the Chair to Counsel, can we get an explanation on this, please.

MS. KNAPP:

This is a resolution sponsored by Legislator Foley and Legislator Caracappa. It would amend the Transportation Advisory Board so that the current Chairman would be required to call an organization meeting every year no later than February 15th, and at that organization meeting, the Chair will be selected by a majority vote of those present. It used to be that the Chairperson was going to be one of the two members from the public at large. So the change would be to change it from the requirement that it be one of the two from the public at large to allowing the board to choose their own Chair annually.

LEG. FOLEY:

Right. To broaden the number of, if you will, candidates for Chair of the advisory board, number one, which we feel is a good thing, but number two, they have not been holding too many meetings, and we wanted to at least get the first meeting of each year started no later than February 15 so they can, you know, get moving on the issues that they have the mission to address. So it's to •• in essence, to make some minor amendments to the •• to the proceedings of the board in order for them to move more quickly each year on the issues that we've given them the responsibility to address.

LEG. CARPENTER:

Thank you.

CHAIRMAN BINDER:

We have a motion and a second. All those in favor? Opposed? 1280 is **approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1323, approving amended Cross Bay Ferry License for Bay Shore Ferry. (PRESIDING OFFICER)

LEG. CARPENTER:

Motion to table.

LEG. FOLEY:

Second.

CHAIRMAN BINDER:

Motion by Legislator Carpenter, seconded by Legislator Foley. All in favor? Opposed? **Tabled.**
(VOTE: 5•0•0•1)

(Not present; Legis. O'Leary).

1361, approving funds in connection with improvements to water supply systems.

(COUNTY EXEC). We have a motion by Legislator Foley, seconded by Legislator Viloría•Fisher.

Are there any comments. If not, all those in favor? Opposed? **1361 is APPROVED. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1362, appropriating funds in connection with the Riverhead County Center power plant upgrade. (COUNTY EXEC). If the Commissioner would like to come up. If you want to

submarine the County Exec's bill, you can •• you can do that if you'd like.

COMMISSIONER BARTHA:

Thank you for the opportunity.

CHAIRMAN BINDER:

1362, if there's something, just shout it out. Jump in if you want to jump in. Motion by Legislator Carpenter, seconded by myself. All in favor? Opposed? **Approved. (VOTE: 5•0•0•1)(Not present; Legislator O'Leary)**

COMMISSIONER BARTHA:

It's my turn to shout out now.

COMMISSIONER BARTHA:

Go ahead, shout out.

COMMISSIONER BARTHA:

Excuse me. The next two resolutions we would like to have tabled. We still have to bring them before the Sewer Agency, we got a little bit ahead of ourselves.

LEG. CARPENTER:

Motion to table.

LEG. VILORIA•FISHER:

Second.

CHAIRMAN BINDER:

Motion to table by Legislator Carpenter, seconded by Legislator Viloría•Fisher on **1363, (a resolution calling for a public hearing for the purpose of considering the proposed increase and improvements of facilities for Sewer District N. 11 • Selden. (COUNTY EXEC). All those in favor? Opposed? TABLED. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1364, (a resolution calling for a public hearing for the purpose of considering the proposed increase and improvements of facilities for Sewer District N. 18 • Hauppauge. (COUNTY EXEC). Same motion, same second, same vote on 1364. TABLED. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).

1365, appropriating funds in connection with dredging of County waters. (COUNTY EXEC). I think I heard motion by Legislator Carpenter, seconded by Legislator Viloría•Fisher. All those in favor? Opposed? Approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).

1389, transferring Escrow Account Funds to the Capital Fund, amending the 2005 Capital Budget and Program, and appropriating design and construction funds for improvements to the Suffolk County Sewer District No. • 7 Medford. (COUNTY EXEC)

LEG. FOLEY:

Motion.

LEG. CARPENTER:

Second.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by Legislator Viloría•Fisher. All in favor? Opposed?

Approved. (VOTE: 5•0•0•1)

(Not present; Legis. O'Leary).

1390, appropriating funds in connection with replacement/clean up of fossil fuel, toxic and hazardous material storage tanks. (COUNTY EXEC)

LEG. CARPENTER:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Carpenter, seconded by myself. All in favor? Opposed? **Approved.**

(VOTE: 5•0•0•1) (Not present; Legis. O'Leary).

1391, appropriating funds in connection with the modifications for compliance with Americans with Disabilities Act. (COUNTY EXEC). Motion by Legislator Vioria•Fisher, seconded by Legislator Carpenter. Any discussion? If not, all in favor? Opposed? **Approved.**

(VOTE: 5•0•0•1) (Not present; Legis. O'Leary).

1392, appropriating funds in connection with the weatherproofing of County buildings. (COUNTY EXEC). Motion by Legislator Foley, seconded by Legislator Carpenter. Any comments? If not, all in favor? Opposed? Legislator Carpenter.

LEG. CARPENTER:

The air conditioning isn't working too well in the back offices here, this just reminded me. So I think a call is in, and maybe you can see about expediting someone to take care of that.

COMMISSIONER BARTHA:

Which offices in particular, do you know?

LEG. CARPENTER:

In the back, the whole corridor.

COMMISSIONER BARTHA:

We will follow up.

CHAIRMAN BINDER:

All in favor? Opposed? 1392 is **approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1393, appropriating funds in connection with the removal of toxic and hazardous building materials and components at various County facilities. (COUNTY EXEC).

LEG. CARPENTER:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Carpenter, seconded by Legislator Foley. All in favor? Opposed? 1393 is **approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).**

1394, authorizing the execution of agreement between the County and CBS Bus Lines, Inc. for enhanced bus services on Route S60 including additional service in the area of downtown Stony Brook. (VILORIA•FISHER)

LEG. VILORIA•FISHER:

Motion.

CHAIRMAN BINDER:

We have a motion by Legislator Vilorio•Fisher, seconded by Legislator Foley. Before we go forward with this, I want to ask, do we have any history on CBS? I have heard •• you know, I have to be careful here, you know, being on the record, but I've heard some things that I'm concerned about with CBS Lines, Inc., and this company. So I don't want to hurt anybody in the company, but I've heard some stuff, and I just kind of really heard it recently that there might be some troubles. So I don't know if the Commissioner has any information on that.

COMMISSIONER BARTHA:

Nothing that I can add to it at this point.

CHAIRMAN BINDER:

Was there •• where they in the County •• they have other ••

COMMISSIONER BARTHA:

Yes. They're one of several bus companies that have routes with us.

LEG. VILORIO•FISHER:

They currently run the route in Port Jefferson.

COMMISSIONER BARTHA:

Right. This is an existing route that for a piece of it, we are going to add a bus to increase the service between the Village of Stony Brook and the Village of Port Jefferson.

CHAIRMAN BINDER:

Right. I just •• there are things that I was concerned about. They recently lost contract bid on a mini bus? That's my understanding. It doesn't mean that they shouldn't be able to get this.

COMMISSIONER BARTHA:

Let me check with Bob.

MR. SHINNICK:

Good afternoon. CBS Bus Lines had been the previous operator on the Paratransit Service that the County has operated for it. Last year we solicited proposals from bus companies through the RFP process to actually put in place a new contract agreement. The company that was selected is Suffolk Bus Corporation. And of all the companies that submitted proposals, they submitted the best proposal for the County.

CHAIRMAN BINDER:

Suffolk Bus, the one replaced CBS?

MR. SHINNICK:

Yes. That's correct.

CHAIRMAN BINDER:

Now, is there any legal issues, lawsuit issues, I want to just get this on record, are there that we know of, that we should know of, any pending or possible or current legal or lawsuit issues that we might want to know about?

COMMISSIONER BARTHA:

We received •• earlier today Bob and I spoke •• I was just confirming with him •• about if this is the company. We received an anonymous letter that we are investigating the information contained in that letter.

LEG. CARPENTER:

You know what? Maybe I'll suggest that maybe we want to table this. If we're meeting in two weeks ••

CHAIRMAN BINDER:

Right. We have a meeting in two weeks. What's the time sensitivity need on this? Can you give me an idea? Could this wait? Could this agreement wait two weeks?

COMMISSIONER BARTHA:

Legislator Fisher can probably answer that question better.

LEG. VILORIA • FISHER:

Actually, I don't understand what the reason to table this would be. This is a company that is running the route, a Suffolk County route, through from Coram to Port Jefferson. We're not bringing in a new bus company, they run an existing reliable route. We're just extending the route to Stony Brook. And so I think on the basis of somebody having received an anonymous letter and very ambiguous comments being made, it's certainly no reason for the people in my community who have been waiting for this because they know that it was put in the budget, I did in the omnibus budget put all of the allocation to my district into the extension of this bus service. And my constituents have been waiting for this to begin. And the students at Stony Brook whose term will be over have been waiting since January. I would at least like them to have some time to use this bus service.

It's just not fair to my constituents. So as the person who represents that district, which has no impact on whatever this anonymous situation is that I have no •• have not heard anything about, which I don't believe is germane at all to this discussion, I ask my colleagues to let this move forward so that the people who have been waiting for this in my district since the beginning of the year can have this bus service.

We have many, many people who work in restaurants in the Village of Stony Brook who have no way to get there once they get to the end of the bus when it turn south on Nicolls Road, and they can be seen walking along 25A, which is curvy, it's narrow, there are many blind spots, and this would help those people, that whole population, to get to Pentimentos, the Three Village Inn, a

lot of other entities where workers need to walk in order to get to their jobs. They've had to do it all winter through all of these snows, and I'm asking for the consideration of those people who need this bus service, that we not •• we not prolong this because of some vague innuendos.

CHAIRMAN BINDER:

Let me ask, Mr. Commissioner, your comment was that you received an allegation you said you were investigating. I would say that I receive a lot of allegations in my office, we get a lot of information and a lot of times you kind of put it aside because you know it's just not valid. But some things warrant an investigation. So your comment is that you're investigating it, so you are •• let me make an assumption or you tell me it's a valid assumption, that the allegation itself rose to a level where you think it needed to be looked at. I mean, it needed some investigation. You were going to put some resources or efforts into looking into whatever the question that was raised, and maybe it's best that we don't raise the question on the record and give whoever it is, if it's •• if it's •• you know, if it's a baseless allegation, the ability to publically air something like that. But is there at least enough basis that you think you need to look at it number one? Number two, could you •• could you in two weeks •• let us know in two weeks what the outcome is and then that would help us go forward?

COMMISSIONER BARTHA:

Certainly in two weeks, we'd be able to give you some indication of whether we think it should go further or not, the investigation of the allegations. It may be that someone doesn't understand the process, it may be valid, and it may be just a malicious disgruntled employee.

CHAIRMAN BINDER:

Right. But from your reading of it, one of three options was it may be valid. That is what you just said, could be malicious, could be disgruntled, it could be valid or it could be just a misunderstanding, those are four different possibilities. But one of those was it could be valid.

And my concern here, when we're talking about two weeks, and I understand people are walking, good thing is it is not winter, and I understand they have walked through the winter, but we're talking two more weeks, we're not talking months or years. And if Public Works has the ability to clear this up in the next couple of weeks, I would rather not over two weeks step into a hole that we would rather not be in.

LEG. VILORIA • FISHER:

If I may, Mr. Chair. It's very important to recognize that we have an existing route here. The bus is operating in this district. So if the bus can continue to operate as it is, these allegations would have to be investigated one way or another. It's not as if we are talking about suspending all contracts with this particular bus company. They continue to perform a service for Suffolk County. So whether they are performing that service as it currently exists or if it has a small leg of •• how long is it? Bob, how much are we adding to this, a mile, a couple of miles, one may • • maybe three miles one way?

MR. SHINNICK:

Actually, it's probably about four and a half miles we're adding to the service.

LEG. VILORIA • FISHER:

So we're talking about a negligible amount of service being added to this. And when the question hasn't arisen to discontinue the service of CBS Buses •• I'm not an advocate of them, they just happen to be the bus company that provides service to my constituents. So if this hasn't risen to the level of discontinuing this service, then certainly it shouldn't rise to the level of rejecting something that our Transit Division has been working on for a number of months; studying the routes, seeing how best to run it. I took a ride myself on a test run. So there has been some time spent by our County employees designing this route. And to affect it, it just

doesn't make sense not to let it move forward.

LEG. FOLEY:

Mr. Chair.

CHAIRMAN BINDER:

Let me just ask a question based on that. If your investigation rose to level that you found that there was some validity to this, could that affect the current route. Whatever it is you're talking about, if your investigation got to a point •• because now you're investigating it •• if you find validity in whatever this problem is, if it rose to a certain level of proof, evidence, we saw there was a problem, whatever this is about, this could, I assume, effect even the current route and their current ability to deliver service. I mean, is that true?

COMMISSIONER BARTHA:

It's conceivable, yes. It's a little bit ahead of ourselves here.

CHAIRMAN BINDER:

The point is that at this point we don't know. And the question here before us is not about an existing route, it's about affirmatively taking action, the Legislature voting to affirmatively take action to expand an existing route and with something on the record where we know that there's at least something being looked at. And as I said, we're not talking about months here, we're talking about weeks. Legislator Foley, then Legislator Kennedy.

LEG. FOLEY:

Mr. Chairman, I have a couple more comments. But, Commissioner, in two weeks, if it reached a point where you would have to suspend or abrogate the contract, that's not a decision that's going to be made in two weeks time. I mean, I think there would be a long, lengthy process under the terms of the contract between the provider and the County that it could take, in fact, a matter of months before one could go down that road, if you will, of ending a contract.

CHAIRMAN BINDER:

Legislator Foley, he didn't say that. He said that he was going to just in two weeks give us the validity to tell us if it rose to the level of validity, not whether they were taking action.

LEG. FOLEY:

No. But in two weeks time, there would not be any •• I don't think any •• let me hear from the Commissioner, because he seems to want to say a few •• are there other points you want to make about this?

COMMISSIONER BARTHA:

Well, I want to put in perspective ••

LEG. FOLEY:

Plus, let me just say on the record that many of us are at a disadvantage here, because we don't know •• I'm trying to help you here, Legislator Fisher. Some of us on committee are at a disadvantage of not knowing what the allegations are. So, you know, there are decisions being

made here in a vacuum. Go ahead, Commissioner.

COMMISSIONER BARTHA:

I want to put in perspective that this company holds approximately \$3 million a year in contracts with us right now, and this increase in service amounts to \$150,000. There will not be finality unless this allegation completely falls apart in the next two weeks. I wouldn't expect to have finality. But we really just received this. I just found out about it this morning, and I'm to trying to be •• full disclosure here.

LEG. FOLEY:

What I would say to the Chair is that if, in fact, it is •• if, in fact, it is a serious situation that warrants further attention, certainly then it would go far beyond simply not approving this resolution but going to the heart of the matter of whether or not the contract should continue with that particular company, and that's no decision that would be made in the several weeks. Those other contracts will stay in place for those routes.

That being the case, there are a number of constituents •• and I would say for the record, not only those constituents from Legislator Vilorio•Fisher's district, but there are others throughout the County who would utilize this particular bus route. And, Mr. Chairman, we've gone on record about the need to enhance bus routes throughout the County. Here we have the opportunity to do so. The monies were in place in the budget. Let's move with enhanced •• on twin tracks, move forward with appropriating monies to enhance the bus service on this particular route. And the department can simultaneously look at this very serious charge.

But I don't think one should necessarily wait for the other simply because there are other contracts that this company has that if there is something very serious, it's going to be a far

greater impact than whether or not we enhance the service of this particular route. So I hope we can approve this today and simultaneously, they can look at these allegations that would have an impact far beyond •• I would imagine, far beyond this particular route.

CHAIRMAN BINDER:

Before I go to Legislator Kennedy, how long is this contract for this extension?

MR. SHINNICK:

It probably would be one year.

CHAIRMAN BINDER:

One year agreement. Okay. Legislator Kennedy.

LEG. KENNEDY:

I just wanted to ask a couple of nuts and bolts questions. I've been reading the backup, I see that the route originates at the Smith Haven Mall, but I'm curious as to how you arrive at that \$150,000 figure in order to go ahead and add four miles of route. Is that something that's a figure you use? Is it 37, \$38,000 a mile when you're pricing out routes?

MR. SHINNICK:

The service does not start at Smith Haven Mall. It actually •• the embellished service begins at Port Jefferson Rail Station and extends over to Stony Brook Village. What you may be referring to is the existing bus line that CBS operates now that this new service would operate over. That

bus line begins at Smith Haven Mall, travels through the Stony Brook University over to Port Jefferson and then down on through Coram and Gordon Heights. That's the existing bus line.

LEG. KENNEDY:

Okay. What we're discussing now in this resolution, though, is just an additional four mile loop put on to that existing route?

MR. SHINNICK:

Actually •• excuse me for interrupting.

LEG. KENNEDY:

Sure.

MR. SHINNICK:

The service that we are talking about would overlap existing bus service between Port Jefferson Rail Station and the Stony Brook area on Route 25A. So the bus route itself is about nine miles long that we would be embellishing on top of an existing bus line. There's four and a half miles of bus route that would be added to the existing route that currently operates along 25A and on to Nicolls Road. Instead of traveling south on Nicolls Road, as the Legislator said before, it would continue along 25A west into the Village of Stony Brook. That's all new routing.

LEG. KENNEDY:

Okay. I'm going to go back to my first question. But now I guess you're giving me the opportunity to ask another one. Right now it's a nine mile route?

MR. SHINNICK:

That's correct, approximately.

LEG. KENNEDY:

You want to add another four and a half miles?

MR. SHINNICK:

No. We're going to be adding nine miles of service of which four and a half miles would be new territory.

LEG. KENNEDY:

Okay. And CB •• this. Okay. Maybe my question ought to go to what is the current price or •• I believe that the County subsidizes these routes, they don't operate or break even. How much is committed to this route right now without this addition?

MR. SHINNICK:

That particular bus line •• I don't have a break out for that particular bus service, but the

company is paid approximately \$3 a mile in 2004 to run service.

LEG. KENNEDY:

All right. I guess, I continue to have some questions. The other thing I guess I would ask you is what is the criteria associated with the consultant, _Dunn Associates_ who made the recommendation in the first instance? How does one •• perhaps there's another place in the County where a bus route extension should go to. What do we look at as far as a threshold or criteria? What is the projection for increase in ridership?

MR. SHINNICK:

This particular bus route was developed as a result of a consulting •• it's actually a steering committee that was operated in the Port Jefferson area looking at alternatives to bus transportation in terms of their perceived needs for improved service in that area.

LEG. VILORIA • FISHER:

And we had committed our downtown revitalization money to this •• to this study, our chambers of commerce committed it.

MR. SHINNICK:

This is not a County commissioned study.

LEG. VILORIA • FISHER:

It was our chambers and our downtown revitalization money.

LEG. KENNEDY:

Okay. Thank you. So in other words, do we have something that's going to show what a projected increase in ridership is at this point?

MR. SHINNICK:

We project approximately 25,000 additional riders a year. But the report that generated these recommendations has a full analysis of how they came to their projections.

LEG. VILORIA • FISHER:

Legislator Kennedy, if I may, through the Chair just to expand on that. We're connecting such entities as the Long Island museums to the railroad station. Heretofore, there have been •• there has been no way to have public transportation going from the Long Island Railroad Station in Stony Brook to the Long Island museums or to other areas of interest in the Stony Brook area. And so this had been very much supported by the Long Island Convention and visitors Bureau and by the Brookhaven Tourism Bureau. They were part of my committee when we had dedicated our downtown revitalization money, at which •• cost us quite a bit of money to have this study done.

LEG. KENNEDY:

Thank you.

CHAIRMAN BINDER:

Do I have a motion and a second to approve •• none to table. Okay. So I'm going to make a motion to table, seconded by Legislator Carpenter.

LEG. VILORIA • FISHER:

If I may, Mr. Chair. If we're going to see •• if you insist that the Commissioner look at this letter anonymous letter, as I said ••

CHAIRMAN BINDER:

I didn't insist anything. He said he's already doing it.

LEG. VILORIA • FISHER:

With the tabling motion, I assume that between now and Tuesday, there could be some kind of sense whether or not this letter has any kind of validity. Could we make a motion to discharge without recommendation for this Tuesday's meeting? And I do, again, strongly urge you to allow this to leave committee. My constituents have known that this is something that we have been planning as a community, not for one year or two years, but my community has been working on this for several years. They committed our downtown revitalization money, which it was our understanding that downtown revitalization was to be used as seed money to really have a visionary aspect or visionary growth and seed money for projects that would go beyond benches and flower pots and would have some kind of future aspect to smart growth and real downtown revitalization.

My constituents have been looking forward to this. I don't believe that it is fair to them that an anonymous letter and some rumor that is floating out there should constitute another delay. And if we could at least discharge this without recommendation, if the Commissioner on Tuesday

feels that this warrants a full investigation, then I think he would know by Tuesday if this warrants something. In two weeks, he's not going to come to a conclusion either.

CHAIRMAN BINDER:

Let me say this. If this legislation had been here and tabled for a number of meetings, I would say I have an interest in doing that. But we have a resolution, it's an introductory resolution, it hasn't been tabled, it's still a legislation of first instance. It has not been here before. Tabling one cycle, to me that •• as far as I'm concerned, if something's been in the works for years, to table it for two more weeks to wait until something is cleared up and have the Commissioner back and rather than rush him through whatever he's doing, let him take a good look over the next couple of weeks, we take a look at it at that point.

I know that I would very much hesitate voting for this today if this tabling motion doesn't pass. And I would just like to keep this in committee. This is where it should be until we understand what the disposition is rather than doing this on the floor. Legislator Foley.

LEG. FOLEY:

Also, if it's this two week period, I mean, if this was approved on the 17th, the department still has to do its due diligence on expanding the bus service. So the expanded bus service wouldn't be complete in two week's time anyway. In the intervening period of time, if this allegation raised and red flags, the department would not necessarily have to go sign a contract to expand the enhanced service. So, I mean, that being the case, normally •• may I just may ask through the Chair to the Commissioner, if this was approved let's say on next Tuesday, if it was approved on Tuesday, how long would it take to amend the contract for this particular company to expand the service? I mean, it wouldn't happen automatically. How long a period of time would it take?

MR. SHINNICK:

Three or four weeks probably.

LEG. FOLEY:

Three or four weeks, which is well after the time period you have asked of the department to come up with some initial determinations about the validity of the allegations.

CHAIRMAN BINDER:

Rather than •• we can go back and forth on this. I would just say that Legislature works in committee, and rather than putting something before Legislators with this kind of information where they would be voting on something with incomplete information, I think it's reasonable when a resolution here has not been tabled, that we wait two weeks, get a report from the Commissioner, then we go forward then.

As I said, it's introductory, this has not been tabled before. So there's a motion to table •• motion and a second to table. All those in favor? Opposed.

LEG. VILORIA • FISHER:

Opposed.

LEG. FOLEY:

Opposed.

CHAIRMAN BINDER:

TABLED. (VOTE: 3•2•0•1) (Opposed; Legis. Vioria•Fisher and Foley) (Not present; Legis. O'Leary).

1395, approving maps and authorizing the acquisition of lands pursuant to Section 206 of the Eminent Domain Procedure Law in connection with the acquisition of properties for the reconstruction of a portion of CR 12, Oak Street in the Viallge of Amityville, Town of Babylon, Suffolk County, New York. (COUNTY EXEC). Is there a motion?

LEG. FOLEY:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by Legislator Vioria•Fisher. All in favor? Opposed? **Approved. (VOTE: 5•0•0•1) (Not present; Legis. O'Leary).** We have no Sense Resolutions. Anything else to come before the committee? We have Legislator Carpenter.

LEG. CARPENTER:

Commissioner, I just want to ask, we had quite a lengthy discussion in the Public Safety about this earlier this morning, and that is the Fourth Precinct and the need for moving forward in an expeditious a manner as possible. There was some reference made to the fact that study for the North Complex was being done, but I've also been informed that that study was completed last March. So there doesn't seem to be a reason for holding back with moving forward. The

planning has been appropriated, the construction money is there. So where are we at?

COMMISSIONER BARTHA:

We're proceeding to prepare an RFP, which will be issued I would say probably early next month. That RFP will include an evaluation of siting it by the Dennison Building parking lot as well as the North Complex.

LEG. CARPENTER:

That RFP that's asking for two locations now, is that going to slow up the process at all?

COMMISSIONER BARTHA:

I wouldn't say significantly, but there is obviously a time impact to consider two alternatives.

LEG. CARPENTER:

That's a problem. I mean, the status of that precinct is probably in the worse shape of any of them that were rebuilt, would you agree? I mean, the air conditioning, how does that function?

COMMISSIONER BARTHA:

I can't ••

LEG. CARPENTER:

With a hose, run water and a fan to keep it from overheating. Not safe.

LEG. KENNEDY:

Mr. Chair, if I can just add a little bit to this. You very graciously furnished me with a copy of the inventory. Clearly there's several aspects of that's building, I guess, that problematic at this point. They rate in the poor category. My question is the resolution that was approved authorizing the planning money associated with reconstruction here, did not, I believe, speak about doing anything in the way of any comparison within the body of the resolution; is that correct?

COMMISSIONER BARTHA:

That's correct.

LEG. KENNEDY:

Okay. So, I guess, then I would direct my question now to Legislative Counsel. I'm confused as to how the department is contemplating now doing a study of possible locations when a resolution that authorized planning money directed that there be plans done for construction where the facility is sited. I'm in a quandary.

MS. KNAPP:

Without looking at the resolution, it would be difficult to comment authoritatively. However, my

recollection was that it was bond money, and if it was bond money, you have no legal authorization to issue a bond based on •• you know, without the Legislative direction to allow this study.

COMMISSIONER BARTHA:

The resolution didn't speak as far as I read it as to the site for the Fourth Precinct.

LEG. KENNEDY:

Correct. Nor did it authorize, though, a comparison or a contrast with multiple sites that may be out there. As a matter of fact, the planning resolution that was done and the inventory that was done, I guess, and completed last year or the year before clearly inventoried the Fourth Precinct where it physically sits now. That was part of, I guess, the overall inventory and visioning, if you will, of renovation within the whole North Complex, correct?

COMMISSIONER BARTHA:

The master plan, the draft master plan you're talking about?

LEG. KENNEDY:

Yes.

COMMISSIONER BARTHA:

Yes. It envisioned it at the North Complex.

MS. KNAPP:

Again, if it's bond money and the bond money authorized planning and did not authorize an alternative site study, I think the question •• I mean, we could ask the question of Bond Counsel, whether he has any level of discomfort with signing an opinion of counsel that bond would be allowed under those circumstances.

COMMISSIONER BARTHA:

I will review it as well, as I understand Legislator Kennedy and Carpenter's concerns here.

LEG. KENNEDY:

And clearly the necessity of doing the study will add to the timeline for construction and renovation of the site and the building regardless of where it is, is that true?

COMMISSIONER BARTHA:

Not appreciably, but it would add to the time, yes.

LEG. KENNEDY:

It will add to the time frame. Okay. Thank you.

CHAIRMAN BINDER:

Thank you. Any other comments?

COMMISSIONER BARTHA:

I would just like to add that Deputy Commissioner Mitchel has gotten back on Legislator Carpenter's questions about the air conditioning. Our Operations and Maintenance people are aware of it. Two compressors have blown, and we are operating about 50% of power. The compressors have been ordered and will be replaced by at the latest, beginning of next week.

LEG. CARPENTER:

Thank you.

CHAIRMAN BINDER:

Legislator Foley, quickly, please.

LEG. FOLEY:

I know this is a bust time for Highway Maintenance with all the grass cuttings, but the medians on County Road 19, south of the Expressway in Holbrook are in need of the department's attention, okay?

LEG. CARPENTER:

And the department is doing a marvelous job on the medians in Wicks Road when I came down this morning.

LEG. FOLEY:

Thank you.

CHAIRMAN BINDER:

Thank you, Commissioner and everyone. Motion to adjourn by myself, seconded by Legislator Carpenter. All in favor? Opposed? We are adjourned.

(* THE MEETING WAS ADJOURNED AT 4:10 P.M. *)

_ _ **DENOTES BEING SPELLED PHONETICALLY**