

**PUBLIC WORKS**  
**AND**  
**TRANSPORTATION COMMITTEE**  
**of the**  
**SUFFOLK COUNTY LEGISLATURE**

A regular meeting of the Public Works and Public Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Tuesday, June 19, 2007.

**MEMBERS PRESENT:**

Legislator Jay Schneiderman - Chairman  
Legislator Steve Stern - Vice-Chairman  
Legislator Jack Eddington  
Legislator Joseph Caracappa  
Legislator Rick Montano

**ALSO IN ATTENDANCE:**

George Nolan- Counsel to the Legislature  
Kevin Duffy - Budget Review Office  
Gil Anderson - Commissioner - DPW  
Lou Calderone - Deputy Commissioner - DPW  
Catherine Stark - Aide to Chairman Schneiderman  
Tim Laube - Clerk - Legislature  
Ben Zwirn - County Exec's Office  
Gail Lolis - County Attorney's Office  
Eugene Wishod - Talmadge Woods  
Michael Seilback - American Lung Association  
James Egan - Local 66  
Donald Fiore - IBEW Local 25  
Ray Dean - Steamfitters Local 638  
Jimmy Rogers - Painter Allied Trades  
Karen Jacobs - CCE  
Marc Schneider - Galleria Homeowners Association  
Matthew Chartrand - Iron workers Local 361  
Ronnie Richardson  
All Other Interested Parties

**MINUTES TAKEN BY:**

Donna Catalano - Court Stenographer

(\*THE MEETING WAS CALLED TO ORDER AT 2:07 P.M.\*)

**CHAIRMAN SCHNEIDERMAN:**

I'd like to call the meeting of the Public Works and Transportation Committee to order. If you all will rise and join us for the Pledge of Allegiance led by Legislator Stern.

**SALUTATION**

**CHAIRMAN SCHNEIDERMAN:**

You may be seated. If you wish to speak during public portion, you need to fill out a yellow card. I see that some of you have already done so. We will begin with Gene Wishod. I see, Mr. Wishod, that you are down for speaking on two separate bills. Do you need more than three minutes in total.

**MR. WISHOD:**

I'm afraid I do.

**CHAIRMAN SCHNEIDERMAN:**

I will give you three minutes on each of these bills, okay?

**MR. WISHOD:**

I'll do my best.

**CHAIRMAN SCHNEIDERMAN:**

All right. Thank you.

**MR. WISHOD:**

Would you mind if I spoke from the chair?

**CHAIRMAN SCHNEIDERMAN:**

No, that's fine.

**MR. WISHOD:**

Is this on?

**CHAIRMAN SCHNEIDERMAN:**

Yes. I can hear you fine.

**MR. WISHOD:**

I'm here on 1556 involving the Galleria Sewer District, a resolution to direct the Suffolk County Sewer Agency and Department of Public Works to finalize its creation, which as I understand it is directly contrary to what DPW and the Sewer Agency have resolved to do. And the other one involves Talmadge Woods Sewer District, which is a proposal for a public hearing to increase the rate. The Talmadge proposed resolution is essentially a no-brainer. You're dealing with 400,000 gallon plant that's been always intended to be a County Sewer District.

The residents are currently paying in Talmadge anywhere between \$450 a year and 600 some odd dollars a year. The proposal now is in activating the district, which is an existing district but has not received title to the plant to go to \$503. Now that's a very minor increase, and I don't believe there's any opposition to do. I know there have meetings, and we strongly endorse it.

I appear on behalf of Talmadge Woods STP Associates LLC, which owns the plant. Talmadge District and Galleria follow parallel paths up to a point, then they sharply departed. And to authorize the creation of the Talmadge -- of the Galleria District would means residents who are now paying two to \$300 a year would be paying \$1072 a year, which is a increase that we believe and DPW I think

believes would never be approved by the State Comptroller. See, these districts were both formed based on certain assumed rates. When it came time to -- and we worked for over a year, I'm speaking on my behalf and Galleria and on John Klein's behalf who represents Avalon but couldn't here.

This plant is owned by Avalon Bay Communities. They built it originally to service Avalon apartments of some 300 some odd units. The Dicano Organization, which is my client, built the rest of the plant to serve some office buildings, a couple of communities. That's 178,000 gallon plant as opposed to Talmadge which is a 400,000 gallon plant. Well, we worked for a year to finalize the documents necessary to transfer it. And we were very happy to see the district activated.

At the very last moment in July of last year, the Budget Director in the Budget Office decided that they could not do that for a rate of less than \$1072. Talmadge they were able to adjust because Talmadge was a much larger district, but they could not reduce the proposed Galleria rate. Since that time, Legislator Kennedy ostensibly on behalf of his constituents has been waging a battle that has delayed this public hearing on the dissolution of the district for over six months. We met with the County, we met with Kevin Law, we met with everybody at DPW last October. And they said, "Look, you have two options, you can dissolve the district or you can go ahead and activate it." And we said, "Well, let's call a public hearing, let's hear the pros and cons."

They wanted to know which way we wanted to go. John Klein and I wrote, "look, we were very happy to transfer the plant to the district, but we're not going to do -- we're not inclined to do that if the residents are going to pay over a thousand dollars when they are currently paying two to \$300." And there was no movement in that direction. Legislator Kennedy has attempted to convince the County and the County Attorney's Office that their method of getting to 1072 is not legal. More power to him, but he has not convinced anybody of that. And to adopt a resolution to finalize the activation of the district, I think would be an embarrassment to this committee not knowing all the facts.

We don't -- the arguments that Legislator Kennedy has made against this increase to 1072 have all, to my knowledge, been rejected by the County Attorney's Office, by DPW and by the Suffolk County Sewer Agency. I'm sure you'll hear from them later. So I'm appearing on behalf of myself and John Klein in opposition to a resolution to finalize the creation of the district. A resolution calling for a public hearing on the dissolution of the district, a draft resolution had been submitted by Commission Anderson back in January. As a courtesy, as I understand it to Legislator Kennedy, that's been delayed month after month after month after month.

And I expected it to be on the agenda of this committee having been laid on the table at the last meeting of the Legislature. For some reason it wasn't. I'm sure it's going to find its way hopefully to the next -- and that's where this -- that's where we should go, we should call a public hearing on whether or not the district should be dissolved, because, one, it's going to be unconscionable to ask people paying two the \$300 to pay over a thousand; and, two, even if that was the result of the Legislature, we don't believe the State Comptroller and I don't believe the Sewer Agency or DPW believes that the State Comptroller would ever improve that activation of the district as being in the best interest of the homeowners. And that's it in a nutshell. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you, sir. Next up is Michael Seilback. And on deck, James Egan.

**MR. SEILBACK:**

Good afternoon. I'm here to speak on behalf of the American Lung Association of New York State in support of IR 1623, which is a bill that has been changed for the -- three times, but it's the same bill that I've spoken to you about before. It will give Suffolk County the ability to mandate the use of ultra low sulfur diesel fuel and diesel particulate filters to clean up our diesel fleet here in Suffolk County, owned and operate, also anyone under contract with Suffolk County.

As I've mentioned to you many times before, this bill is very important for lung health, diesel particulates in Suffolk County are very detrimental. They cause asthma attacks, they could very, very severely hurt lung health. And I'm not going to spend a lot of time talking about the merits. You've heard me here before. So I'm just going to ask you to please pass this bill, Jon Cooper's bill. And we should get it done and pass it before the whole Legislature. Thanks.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. James Egan is next followed by Donald Fiore.

**MR. EGAN:**

Good afternoon, Legislators. My name is James Egan. I'm training director for General Building Laborers Local 66 of Nassau-Suffolk County. I'm here to show my support for Resolution 1410, the Scaffold Building Law. I think it's a great idea. I think it will help keep down the accidents, and I think it's a long time coming. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you, sir. Donald Fiore followed by Ray Dean.

**MR. FIORE:**

Good afternoon, Legislator Schneiderman, distinguished members of the Public Works and Transportation Committee. My name is Donald Fiore and I reside at 31 Jenny Lane in Holtsville. I've lived there for about 39 years. I rise to speak on resolution 1410-07, the building and erection of scaffolds. I currently hold the position of business manager of Local Union 25, the International Brotherhood Electrical Workers.

I rise in support of this -- of this bill. I echo the last speaker that this bill has been a long time coming. I know it's at 20 feet. I would rather have seen it a little bit lower, down to ten, but I can understand the repercussions of that. It was at 40, and now it's down to 20. And I appreciate that movement. The erection and the building of scaffolds is an important thing. There have been too many scaffold accidents in New York State, and we don't need another injury, we don't need another patient in the hospital, we don't need one of our members of the Building Trades being hurt, if not the building trades, some pedestrian walking underneath one of these scaffolds or close to a scaffold. So I ask you today to vote in support of this bill and let's move this thing forward. I thank you very much for your time. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Ray Dean followed by Jimmy Rogers.

**MR. DEAN:**

Good afternoon, Legislators, and thank you. My name is Raymond Dean, Junior. I reside at 325 Collington Drive in Ronkonkoma. I've been a resident of Suffolk County since 1957. I'm presently a business agent for Steamfitters Local 638. I rise in support of this bill also. We had asked to get the height lowered, and I see you have done that. Very important to send people home safe every night. The way they came to work in the morning, we want to send them home the same way at night.

Also, on public walkways and things, it's a very important bill where we have some bridging, maybe in a public wall or some place that the public has access. It's very important that these scaffolds are built by qualified people. And I rise in support of Jim Egan and Donald Fiore. And thank you for your time. Please pass this. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Jimmy Rogers followed by Kasey Jacobs.

**MR. ROGERS:**

Good afternoon. I, like my brothers in the labor movement, also support this IR 1410. I can't tell

you -- I'm with District Council Number 9, Painters and Allied Trades. I can't tell you in the ten years that I've been working as rep the amount of job sites I've been on where you will see scaffolding set up. And before you -- I mean, just pulling into the parking lot, you can see that there's no railings. As you get closer to the scaffolding, you notice that one side has a brick under one side. There's a piece of two-by-four under another. I mean, it's just a hodge podge of something ready to -- something bad to happen. The guys are up 20, 30 feet in the air pretty much on a platform with no railings going around it.

I mean, I've been shaking my head for the last ten years saying -- I mean, these are on main arteries. How do these people get away with this? Until somebody gets hurt or killed, that's when they get a fine or something changes. But for the most part, this law is definitely in need. Something that we do in our training center to pretty much scare our apprentices and also our journeyman, we have this list of -- it's called "Physics of a Fall," and I'll give you each a copy of this. It really opens your eyes to what happens at what heights when you -- if you do fall. And the way this legislation -- or this law is right now at 20 feet, it was at 40 feet -- I'll go by 36 feet, because we don't have 40 on here -- at 36 feet high -- and this is on -- they're using 180 pound individual on the job site -- if you fall at 36 feet, you go at a velocity of 48 feet per second at a speed of 33 miles an hour, and the impact on the ground is 14,000 pounds. That's at 36. At 16 feet -- again, I don't have 20 feet here -- but even at 16 feet, you are going 22 miles an hour by the time you hit the ground, and you're hitting at 6400 pounds.

So this is a good start at 20 feet. Down the road, I'd like to see it brought down to -- even at nine feet, you're going 16 miles an hour and you're hitting the ground at 3600 pounds. So you're not likely to survive, and if you do, you're going to be pretty much all broken up. Also, in the future, maybe we can do something aside from the erector and dismantler to have the users, the people actually working on there, have some kind of certification or OSHA training. I thank you for your time.

**CHAIRMAN SCHNEIDERMAN:**

Can I just ask you a quick question about the bill, because now it's been lowered to 20 from 40. And I know in my district, a lot of the construction is residential construction. Most of it's -- you know, most of these houses don't go up more than 40 feet high per say, but there's a lot of scaffolding going on at that, you know, 20, 30 feet level. Now these companies are going to have to take a 32 hour course, right, that's how it's going to work?

**MR. ROGERS:**

Yep.

**CHAIRMAN SCHNEIDERMAN:**

Is there going to be anything offered on the East End that's available -- you know, it's a long trip for a lot of these small -- you know, these are mom and pop, you know, small contractors who do this. I don't want to see these guys get hurt. You know, the construction industry is really very important to the local economy out there. A lot of the people, year-round members of the community, are employed in that trade.

**MR. ROGERS:**

I guess it works both ways. You don't want to hurt them in their pocket and make it a real big burden for them, but at the same time, you want these people to be safe and be able to go home to their family at night. I know in the Town of Oyster Bay they're going to put similar legislation in place. They're doing it at 42 inches, but their excluding residential. So you can either do -- exclude residential and just make it on commercial --

**CHAIRMAN SCHNEIDERMAN:**

I'd be much more comfortable if this bill excluded residential. Are you guys okay with that?

**MR. ROGERS:**

That's fine.

**CHAIRMAN SCHNEIDERMAN:**

It's not really -- that wasn't your target on this bill.

**MR. ROGERS:**

No. We're concerned with commercial. And excluding residential and lower the height, that's fine with us.

**CHAIRMAN SCHNEIDERMAN:**

Okay. Thank you. Kasey Jacobs followed by Marc Schneider.

**MS. JACOBS:**

Good afternoon. My name is Kasey Jacobs, Program Coordinator with Citizens Campaign for the Environment. CCE strongly supports IR 1623, which would substantially reduce emissions in the County through the use of ULSD and retrofit technology for the on-road and non-road vehicles. Similar legislation has already been passed and enforced nationally, statewide, Nassau County, Westchester County and New York City. By passing IR 1623, the County will have taken a proactive step in addressing critical health concerns of residents as well as reducing harmful greenhouse gas emissions, which increases the County's contributions to global climate change.

In addition, last year, Suffolk County signed on to the New York Metropolitan Air Quality Initiative along with the counties of Nassau, Suffolk, Putnam, Rockland, New York City and Westchester, also the New York State Department of Transportation, the Federal Highway Administration and the EPA and committed to reviewing and converting to ULSD and retrofit technology. Also in this agreement, bio diesel for the counties was also mentioned. And as you all know, last week, that was passed. And IR 1623 is complimentary to the new bio diesel law and takes it a step further to fully ensure that the Suffolk County on-road and non-road vehicle fleet is as safe as currently possible for human health in the environment.

I'm sure I don't need to go over the health reasons for this bill. You've heard it from myself and Mike Seilback a lot, so I'll kind of, you know, spare of from that. But the timeline in this legislation, which I know has come up for discussion, for the retrofit is sufficient, the timeline is essential, and it's also unquestionably attainable. It gives Suffolk County more time than the other counties committed to this to convert their fleets, and it's flexible so that the DPW has ample time to accomplish the much needed goal of emission reduction for health and the environment. So on behalf of the millions of residents living, working, recreating and breathing in Suffolk County, the Island and the region, CCE strongly urges this committee to pass through the ULSD retrofit bill. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. Marc Schneider followed by Matthew Chartrand.

**MR. SCHNEIDER:**

Good afternoon. My name is Marc Schneider. I represent the Homeowners Association Windcrest at Galleria Homeowners Association, Inc. This is on item number 1556. I heard the comments that were made earlier, as you all did, from Mr. Wishod, and we share a different opinion than Mr. Wishod does and his clients do.

The community which my firm represents Homeowners Association with 187 units, homes. The sewage treatment plant which is at issue here is shared by my client's community, Avalon as well as Coventry Village. There was an informal meeting which was held I believe March 28th, whereby Ben Wright was present, representatives of the County Executive's Office I believe were present. And there was discussion with regard to the fact that there now was going to be a proposed increase in the rate to this \$1072 number. There was quite a bit outcry from the homeowners at issue with regard to the increase in rate, and that primarily is because when they were showed the documents

which give rise to where the number came from, there appeared to be very many -- several hundred thousand dollars worth of very many soft costs, which in my opinion and I believe in the opinion of Legislator Kennedy, violates County Law Section 266.

Essentially what is being proposed is to take cost which have no relationship whatsoever to -- in any real fashion to actual costs for the facility and to pass them on to the homeowners, which is why the original proposed rate of 400 and some odd dollars I believe per home is going to \$1072. We think that's substantially unjust. And we do believe that the County should take this over, and it should be taken over at the rate which was originally proposed, which was the 400 and some odd dollar number.

I speak for the Boards of Directors of the Homeowners Association who has advised me that they certainly have spoken with various homeowners and many of whom attended that first informal meeting who are in favor of the plant being taken over, but obviously not at \$1072. We do think that there's an obligation to put forward the appropriate rate, not a rate which is fictitious which has numbers which don't bear and kind of equitable rational, which is required by Section 266.

After the March 28th meeting, there was an April meeting whereby similar representatives came out to the community actually and met. And we put forth to them the issues again with regard to the equitable nature, the fairness and what the rates actually should be. After that meeting, it was suggested that they were going to meet, they were going to meet with Legislator Kennedy and we were going to hear back from them. It was only recently that I learned that now instead of getting back to us, they are proposing to have a hearing to dissolve the district. That is not in the best interest of the homeowners, the taxpayers, who share this sewage treatment plant or the utilization of the sewage treatment plant.

It's important to note that while Avalon Bay may be an owner, Avalon Bay and Windcrest are part of a Property Owners Association because their land abuts each other, which is required to pay in to the operational costs of the sewage treatment plant. Presently the cost is about 200 and some odd dollars as Mr. Wishod said, that's what it's costing each unit owner. It's unpalatable that the cost could be almost five times the amount of the cost that it cost to operate the facility. And the reason why is because if everybody looks at the budget, you'll see that the budget actually has numbers, which clearly bear no relationship to actual cost.

So in closing -- I just learned that this was going to be on late -- early last evening, so I'm a little bit on short notice here. But in closing, the bottom line is that the community does want the County to certainly take it over, but we would ask that the bill which supports having it presented at the rate of 400 and some odd dollars be the one that actually -- the rate that is actually proposed. Thank you.

**LEG. STERN:**

Thank you, Mr. Schneider. Matthew Chartrand.

**MR. CHARTRAND:**

Yes. Good afternoon. My name is Matt Chartrand. I reside at 890 Udall Road in West Islip. I'm representing the Iron Workers here. Also, I'm with the Building Trades. I'm in support of the scaffolding legislation for a few reasons; one, being that I'm involved in Brooklyn and Queens a lot in my jurisdiction and seeing all the tragedies that happen in those areas. And I'm glad to see that this is coming in front of legislation now before there is a tragedy and we're naming this after some poor individual who got killed or some poor pedestrian who was walking by and got killed with unsafe scaffolding.

As far as the residential that goes with this, we're talking about the heights here. Well, in three sections you're only going to be topping at about 20 feet here, okay? And that's -- with the residential, most houses are within that size. Anything above that, you're talking a pretty big size house there. And at that point, I think you really do need somebody qualified to build scaffolding and should have some training in it. And, you know, the Trades, yes, we do have the training out

here. And anybody who's going to be doing these mega houses and what not that are going to require this scaffolding over three or four sections, they should also be trained. Hey, it's for the safety of the workers as well as the people around them.

In a residential area, if you're going to be building a scaffolding, more than likely the people that are going to be walking around that scaffolding aren't going to be trained in the hazards that are involved in the scaffolding. So a little child walking in the neighborhood, he's not going to know what's going on and the scaffolding it not built right, he might bump into it and knock it over or what not. So I think we should definitely support this project the way it stands. I appreciate your time. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

I think that's our last -- one more, Ronnie Richardson.

**MR. RICHARDSON:**

Ronnie Richardson, Business Agent, Local 46, Reinforcing Iron Workers. I'm also here to support this bill. I don't believe that you can ever put a price on or an expense on safety. When I was a young man, 25 years ago, my boss told me and my partner to go up and build the scaffolding ourselves. My partner fell 25 feet, was impaled on a three-quarter inch steel rod for seven hours. He has never worked since. We had no training whatsoever. We were just trying to make a living. We did what we were told to do. And that's my personal story. And now as a business agent representing 1500 men, I see accidents happen every single day of the week. And you cannot put a price on a man's life. I just would appreciate if you just would think about that. Thank you.

**CHAIRMAN SCHNEIDERMAN:**

Thank you. We've made it through the yellow cards. Was there anyone else who wanted to be heard that did not fill out a yellow card? Very well then. We'll move to the agenda. We have no presentations this afternoon. I'll ask Commissioner Anderson to step forward to the table so he can answer any questions that come up during the course of our discussions. We begin with Tabled Resolution 2594.

**2594-06, Directing the Department of Public Works to conduct a traffic study of County Road 111 from the Long Island Expressway to Sunrise Highway. (Romaine)**

I'll make a motion to table.

**LEG. EDDINGTON:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator Eddington. All those in favor? Opposed? Abstentions? 2594 is **TABLED (VOTE:5-0-0-0)**.

**1103, Directing the Department of Public Works to expand the 7D Bus Route. (Romaine)**

I'll make the same motion, same second to table. All in favor? Opposed? Abstentions? So **TABLED (VOTE:5-0-0-0)**.

**1359, Amending the 2007 Capital Budget and Program and appropriating funds in connection with stormwater system discharge remediation and stream water silt removal and remediation at the Nissequogue Tributary headwaters north from CR 76, Townline Road to Miller's Pond, Smithtown, Lake Ronkonkoma, Old Nichols Road, Corridor, and surrounding areas (CP 8710). (Kennedy)**

I see the sponsor is present with us. Legislator Kennedy, is there a reason this would need to move at this point?

**LEG. KENNEDY:**

Thank you, Mr. Chair. Yes. As a matter of fact, we had worked to try to get the correct SEQRA clause resolved on this. Legislative Counsel and I, as a matter of fact, dialoged as recently as yesterday, and I do know that we know have the acceptable language. If the amended version is before us, then I would ask if the committee could go ahead and move the bill out, because we now have SEQRA determination which will be made with the Town of Smithtown as the lead agency.

This goes -- and just by way of further explanation, Mr. Chair, it is to further support the flooding remediation efforts that have been a collaboration between a County and town for the better part of about 15, 16 months now.

**CHAIRMAN SCHNEIDERMAN:**

First, let me ask Counsel if this is eligible for a vote in this amended form.

**MR. NOLAN:**

It was amended timely, yes.

**CHAIRMAN SCHNEIDERMAN:**

I just want to look at the offsets here. This is what, half a million dollars, Legislator Kennedy?

**LEG. KENNEDY:**

Yes, I believe so, Mr. Chair.

**CHAIRMAN SCHNEIDERMAN:**

And a bond. And we're offsetting them with --

**MR. NOLAN:**

Infrastructure improvements.

**CHAIRMAN SCHNEIDERMAN:**

Infrastructure improvements where? Anybody know where the money is coming from? This is project 1755, infrastructure improvements and traffic and public safety and public health.

**MS. GAZES:**

It's coming from Capital Project 1755, which has appeared in the several years on the Capital Program for projects so designated by the Legislature.

**LEG. CARACAPPA:**

It's an offset account.

**MS. GAZES:**

Correct.

**CHAIRMAN SCHNEIDERMAN:**

All right. So it's a proper offset then. All right. Is there a motion?

**LEG. CARACAPPA:**

On the motion.

**CHAIRMAN SCHNEIDERMAN:**

No. Is there a motion? We haven't made a motion yet.

**LEG. CARACAPPA:**

I'll make a motion to discharge without recommendation.

**CHAIRMAN SCHNEIDERMAN:**

Okay. There's a motion to discharge without recommendation. I'll second. On the motion, Legislator Caracappa.

**LEG. CARACAPPA:**

Roz, if you could, excluding this \$500,000, what's -- what are we looking at for the rest of the year by way of the Infrastructure Improvement Fund?

**MS. GAZES:**

I'd have to double check, but based -- not on the resolutions that have already been approved, but those that are pending, we're probably down to somewhere under \$300,000. But I'll double check.

**LEG. CARACAPPA:**

That's fine.

**CHAIRMAN SCHNEIDERMAN:**

Any other discussion?

**COMMISSIONER ANDERSON:**

Again, I'd like to reiterate, if this could be tabled for a cycle that I could discuss the resolution with the Legislator. We have some questions on this, whether the intent of the legislation is to be -- is to go before the Water Quality Review Committee, or if -- you know, just so it's clarified. And I haven't seen the revised legislation. If I could get that opportunity --

**CHAIRMAN SCHNEIDERMAN:**

It's no longer 477 funded, right? So it wouldn't be a requirement to go before Water Quality anymore.

**COMMISSIONER ANDERSON:**

Right.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Caracappa.

**LEG. CARACAPPA:**

Not to take Legislator Kennedy's time away, but seeing that we're about to have one last meeting before we have our summer break and seeing that there is quite a significant problem in this area that Legislator Kennedy is trying to work on, I think it would be fair that the motion stand, at least we discharge without recommendation, at least get it out of the committee, provide time between now and Tuesday for the Commissioner and Legislator Kennedy to discuss it, and if something can't be worked out in a timely fashion, we'll table it on the floor. But if it can be worked out, we don't have to do the whole discharge motion on the floor of the Legislature in Riverhead. And if everything can be worked out, it moves timely as opposed to sitting and languishing for the summer.

**CHAIRMAN SCHNEIDERMAN:**

I just want to make sure I understand this, because, you know, I've been told that basically there's some 500 houses that experience chronic flooding in this area, and it appears to be due to the Nissequogue River not adequately draining out. It's silted over.

**LEG. KENNEDY:**

It's a variety of reasons, Mr. Chair. And as usual, our senior Legislator really articulates and hits the issue right as its core. And I appreciate his comments and I appreciate the support of the Chair. I'll be happy to reach out to Commissioner Anderson and engage in that dialog. But I really would ask my colleagues on the committee here --

**CHAIRMAN SCHNEIDERMAN:**

Again, is this a dredging -- it supports the dredging of the sediments at the delta, so to speak, of the river?

**LEG. KENNEDY:**

Actually, it can't be dredging, because we're talking about interior creek areas. So most of this is going to have to be done by small operated machinery, track machinery and things like that. Nevertheless, it's to actually bring out the accretion that's built up in the stream bed itself so that now the natural water flow does not flow. And particularly when we have stormwater flow coming off the street, all it does is pond and back up. So it's really -- it's stagnant and can be as wide as 50 or 60 feet of stagnant water following a heavy rain. It's in desperate need of just some general housekeeping.

**CHAIRMAN SCHNEIDERMAN:**

And where did the \$500,000 come from? An estimate was developed for --

**LEG. KENNEDY:**

That came about as a result of the original scoping work that was done -- some of the scoping work that was done with the Town of Smithtown Engineer and some work, as a matter of fact, with Highway. The magnitude of the cost is being fine tuned, but there are phases for the project that are going forward. And this would adequately phase it through -- adequately fund through the end of the first phase of the project.

**CHAIRMAN SCHNEIDERMAN:**

Now, will this alleviate the need for the dredging, because this was a project, I believe, that went through the whole review process for dredging?

**LEG. KENNEDY:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

We do have funds, but limited funds, available for consultants within that dredging line. So now these funds would be available for other projects.

**LEG. KENNEDY:**

Yes, that's correct.

**CHAIRMAN SCHNEIDERMAN:**

Okay.

**MR. ZWIRN:**

Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

Mr. Zwirn.

**MR. ZWIRN:**

We just have a question as to who -- we're going to be transferring money to the towns, who's -- and the town is going to do the work?

**LEG. KENNEDY:**

This is following, Ben, in line with the collaborative effort that we had established last year. You'll recall, as a matter of fact, we all speak about this and talked at length to establish this initial -- I believe it's an actual Capital Project. I believe it's 8144, if my recollection serves me. Yes. And this is following along in that line of continuing the ongoing remediation efforts in that area.

**MR. ZWIRN:**

But the towns will be -- I think DPW is just wondering who's going to be doing -- we'll be transferring the money to the towns --

**LEG. KENNEDY:**

The point is going to be the town.

**MR. ZWIRN:**

The town is going to --

**LEG. KENNEDY:**

Correct.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Caracappa.

**LEG. CARACAPPA:**

Well, I still want to move on it the way I mentioned, but it does -- that does raise a concern. I believe General Municipal Law doesn't allow us to -- from jurisdiction to transfer funding to another jurisdiction, such as was the case with Raynor Beach Park and the Town of Brookhaven when you successfully were able to work on the cost sharing on that. So if you could just address that --

**LEG. KENNEDY:**

I'll address that on Tuesday.

**LEG. CARACAPPA:**

Okay.

**MR. ZWIRN:**

That was one of the questions we had when we talked about tabling it, but you make a cogent argument.

**CHAIRMAN SCHNEIDERMAN:**

Joe, County funds are often given to towns, like the Police District money, the Public Safety monies are County monies that are given to all the local towns for police functions.

**LEG. CARACAPPA:**

I don't think you can do a direct cash infusion for a project -- a Capital Project of this sort. I think -- Counsel, didn't we just run -- bump up against this?

**MR. NOLAN:**

I don't know if there's a prohibition against one municipality giving another money. The way we're doing this is really modeled on the bill last year in the same area where we talked about an intermunicipal agreement between the County and the town --

**LEG. CARACAPPA:**

In-kind services?

**MR. NOLAN:**

Yeah. To work it out. And the details will be an intermunicipal agreement.

**LEG. CARACAPPA:**

That's perfect.

**LEG. KENNEDY:**

Okay.

**LEG. CARACAPPA:**

Okay. Excellent.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN SCHNEIDERMAN:**

I think particularly when the function would otherwise be a County function and you're just paying a contractor to do it, basically I believe you can give it to the town to perform the function.

**LEG. CARACAPPA:**

It gets gray based on what we've done, what we've allowed and what we've disallowed. So like if we can get part of that as the clarification process between now and Tuesday, for my own benefit, it would be helpful.

**CHAIRMAN SCHNEIDERMAN:**

So there's a motion and a second to discharge without recommendation. Any further discussion? All in favor? Opposed? Abstentions? Okay. 1359 was **DISCHARGED WITHOUT RECOMMENDATION (VOTE:5-0-0-0)**.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN SCHNEIDERMAN:**

**1403, Creating the Suffolk Municipal Academic Regional Transit (SMART) Transportation Task Force. (Viloria-Fisher)**

There's a motion to table by Legislator Caracappa, I'll second the motion to table. Any discussion? All in favor? Opposed? Abstentions? 1403 is **TABLED (VOTE:5-0-0-0)**.

**1410, Adopting Local Law No. 2007, A Local Law establishing regulations for supported scaffolds. (Co. Exec.)**

**MR. ZWIRN:**

Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

Yes.

**MR. ZWIRN:**

When you get a chance, I just --

**CHAIRMAN SCHNEIDERMAN:**

Yeah. I'm going to make a motion to table this. I think the law is a good law. I'm a little bit concerned of how it may affect the residential housing industry, particularly in my district. I would like an opportunity to talk to the County Executive and see if we could build a similar exemption as to the one in Oyster Bay, which exempts residential property. So I would just like a little bit more time, though on principle, I support the support the bill and look forward to its passage.

**LEG. CARACAPPA:**

On the motion.

**CHAIRMAN SCHNEIDERMAN:**

Yes. Is there a second to table?

**LEG. CARACAPPA:**

Purpose of discussion, I'll second it for now.

**CHAIRMAN SCHNEIDERMAN:**

Okay.

**LEG. CARACAPPA:**

On the motion.

**CHAIRMAN SCHNEIDERMAN:**

Okay. Legislator Caracappa.

**LEG. CARACAPPA:**

Ben you were going to -- I don't know if you were going to say what I need to hear, but I'd like to hear the County Executive's --

**MR. ZWIRN:**

We did give a call at -- during the proceedings, and they are supportive of the bill in the present form. It's a safety issue. Mr. Fiore has indicated, and I'm sure you put on the record, that they have offices in Riverhead where East End builders could come and take the classes. But they are concerned that, you know, a 20 foot scaffold, whether it's on a residential building or on a commercial building, when somebody falls off that scaffolding, the injuries are going to be the same and as life-threatening as whether it's -- they won't know the difference between a commercial and residential building. So we have worked long and hard on this with the industry to try to make this a workable bill. We lowered the height to make it more in tune with safety issues. And the County Executive would -- is asking for your support in its current form.

**CHAIRMAN SCHNEIDERMAN:**

Was that bill amended before or after the public hearing? I thought the public hearing was at 40 feet. It wasn't?

**MR. NOLAN:**

No. It's my understanding it was amended prior to the closing of the public hearing.

**MR. ZWIRN:**

I believe it was.

**CHAIRMAN SCHNEIDERMAN:**

Because I haven't heard from the affected parties, which I would like to allow some time for those people who are in residential construction to comment on this.

**MR. ZWIRN:**

Well, if the bill should pass, there is still another public hearing that is held that the County Executive has.

**LEG. CARACAPPA:**

Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Caracappa.

**LEG. CARACAPPA:**

So it's the County Executive's, who is the prime sponsor, intention not to change the bill whatsoever at this point in time. Is he willing to take more input as Legislator Schneiderman is asking for, or is

this set in stone, you're good and you want to move forward?

**MR. ZWIRN:**

I think he thinks the bill is ready for a vote on an up or down. I mean, he always -- you know, if it doesn't pass, could we revisit the issue? Yes. But if the bill would pass in this form, this is the form he would prefer to see it approved in.

**CHAIRMAN SCHNEIDERMAN:**

I think you're going to create a bigger safety hazard with -- you know, you'll see 20 foot scaffolding and then ladders being used for that extra distance. You know, the homes in most of these towns are limited to 32 feet in height anyway. They are going to reach -- they are going to do dangerous things, I think, rather than taking a 32 hour class. I could be wrong.

**MR. ZWIRN:**

I would hope that's not the case.

**CHAIRMAN SCHNEIDERMAN:**

It's a concern. All I'm asking for is another week, though I recognize that we don't meet in July so it would really probably delay it until August. But I would like to give an opportunity to that very important sector of the economy, particularly on the East End, to have a chance to know this is coming and to comment on the issues that may arise for the industry.

**MR. ZWIRN:**

If I might then. And to take the eloquent arguments that were made by Legislator Caracappa, if this could be discharged without recommendation to the full floor so at least we could have a full debate before the entire Legislature.

**LEG. CARACAPPA:**

That's where I was headed in my comments, Mr. Chairman. With the same approach as was made with Legislator Kennedy's bill, I share your same concerns with residential. I would love to see the bill exclude single family residential homes, but also keep in, like, MF zoning, which is commercial residential. That should definitely stay in, because they're basically large buildings. I would make a motion -- I'll withdraw my second to table and make a motion to discharge without recommendation with the hopes that the County Executive might see what Legislator Schneiderman is talking about and myself and also what some of the members from the industry have noted as a fair bill that's come out of Oyster Bay, I believe it was said. Residential single-family homes could and should be excluded, but also make sure that, again, multi-family residential and commercial residential establishments are most definitely left in.

**CHAIRMAN SCHNEIDERMAN:**

It puts it on the floor for next Tuesday. I just don't think that's adequate time to allow the industry a chance to comment.

**LEG. CARACAPPA:**

Well, it would have to come over -- if the changes were to be made, it would come as a CN to do before our break, which I think we'd all like to see. So that's the angle I'm shooting for.

**MR. ZWIRN:**

We're also meeting in Riverhead. So the people from the East End, that's the best opportunity they're going to have without having to make the trip to Hauppauge to be able to be heard, so.

**CHAIRMAN SCHNEIDERMAN:**

It's just not a lot of time, that's all.

**LEG. CARACAPPA:**

Well, it's an important bill.

**CHAIRMAN SCHNEIDERMAN:**

It's not a lot of time.

**LEG. CARACAPPA:**

I know it's not a lot of time, but it's an important bill. And we are coming up to a very busy season. I don't know if the bill will go into affect for this summer, but --

**MR. NOLAN:**

Twelve months after.

**LEG. CARACAPPA:**

Twelve months, okay. So it wouldn't affect this summer.

**CHAIRMAN SCHNEIDERMAN:**

All right. So now I don't have a second on my tabling. I'm going to make the motion again to table. Is there a second on the tabling? Okay. There's no second. We have a motion to discharge without recommendation. Is there a second to that motion?

**LEG. STERN:**

I'll make a reluctant second. I would much rather make a motion to approve. I understand the issues that are raised by my colleagues. I don't necessarily share them. I think this is important legislation, it's ready to move. The County Executive and his representative have said that this is essentially the bill that they're going with. We heard so eloquently from so many representatives of labor that this is a seriously important safety issue, commercial and residential. And I don't know how you differentiate between safety between someone working on a commercial project or a residential project or a bystander who happens to be walking by a commercial project or a residential project.

But to move the bill to give the Chairman the opportunity anyway to make his comments available to all of my colleagues and to have that discussion with the County Executive, I'll make the second on the discharge without recommendation. But it would be my intention to have this debate on -- at our General Session and to approve this legislation.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Montano.

**LEG. MONTANO:**

I also feel the same way. I actually have worked in the industry when I was with the Attorney General's Office defending cases against the State that fell under the Labor Law and also the New York Code of Rules and Regulations. And, you know, there have been some very serious accidents. I would be prone to approve it, but certainly a discharge without recommendation accomplishes the same purpose; it hits the floor, we can debate the issues. And hopefully those that have any questions can come forward on Tuesday and make their case, and then we can take it from there.

**CHAIRMAN SCHNEIDERMAN:**

Any other comments? Legislator Caracappa.

**LEG. CARACAPPA:**

Well, I said discharge without recommendation. Obviously it is just another way to approve it. But it keeps the door open for negotiations. It's good-faith motion at this point in time, so that's why I made it. And based on what Ben just said, he would appreciate that motion or at least welcome it. So that's why I put it forward. A question on the bill, though. As it relates to residential, Counsel, could residents -- if this bill passes -- residents themselves, homeowners still have the ability to go out and rent scaffolding to do certain projects on the houses themselves, or would that eliminate that ability? I've rented scaffolding myself and done projects with it, so would I be eliminated from

having that ability?

**MR. NOLAN:**

Well, it doesn't make exceptions for homeowners. It says that if you're going to erect scaffolding over 20 feet, you're going to have to do this course.

**MR. ZWIRN:**

Probably a good idea.

**LEG. MONTANO:**

Especially for a homeowner.

**LEG. CARACAPPA:**

I had no problem with it.

**MR. ZWIRN:**

I would probably plant myself in my backyard.

**LEG. CARACAPPA:**

That's where a concern does come in for me, not so much for -- it's different than, I think, what Legislator Schneiderman is saying, but it's connected. Could the door be open at least between now and Tuesday for some discussion related to that?

**MR. ZWIRN:**

As you know, Joe, the door is always open. And it is. I mean, I don't say that facetiously.

**LEG. CARACAPPA:**

One door is open, it leads you to a door that is locked closed, though. You welcome us into it for no negotiations.

**MR. ZWIRN:**

You should have stopped at the first question.

**CHAIRMAN SCHNEIDERMAN:**

You know, I understand the time rush with no meetings in July -- until the end of July, but I don't think this bill is ready to leave the committee. Respectfully, I just think that, you know, these are important changes, that not making these changes will affect a tremendous number of people, a whole industry perhaps.

**MR. ZWIRN:**

In a good way. It's a safety issue.

**CHAIRMAN SCHNEIDERMAN:**

Well, you're assuming that they're not doing it safely now. And there could be some possible negative safety consequences if they don't take this class and instead set up a 20 foot scaffolding plus unstable ladders on that 20 foot scaffolding to get around it. You could end up with other problems. I'm just saying, let's look at it carefully. I didn't sense from some of the proponents of this bill -- not all of them, but some of them -- that this bill was really intended to affect residential. Oyster Bay is exempting residential. I think it makes sense.

I would rather table this, and if those changes can be made, we can do it by CN on Tuesday and not hold the bill up any further. But to discharge a bill that really isn't ready and has some unexplored enormous consequences, I don't think is responsible, but it's one man's opinion. All right. So where are we now? We have a motion to discharge without recommendation. Joe, is that still there in light of your own concerns?

**LEG. CARACAPPA:**

Yep.

**CHAIRMAN SCHNEIDERMAN:**

And a second. All in favor? Opposed? Abstentions?

**CHAIRMAN SCHNEIDERMAN:**

I'll vote as opposed to discharging at this point. Though I do hope to support this bill if it gets changed or after we've heard from the industry. **DISCHARGED WITHOUT RECOMMENDATION (VOTE:4-1-0-0 - Opposed - Legis. Schneiderman).**

**1433, Amending the 2007 Capital Budget and Program and appropriating funds in connection with traffic signal improvements at CR 111 and Halsey Manor Road (CP 5054). (Romaine)**

This bill has been amended. Everybody have the amended copy? I think it removed -- there was a three-part light, and now it's just a regular --

**COMMISSIONER ANDERSON:**

The bill's sponsor and I discussed the bill, and he's made revisions to it. And it is acceptable to the department at this point.

**CHAIRMAN SCHNEIDERMAN:**

What was the change? It went from --

**COMMISSIONER ANDERSON:**

It basically removed three signal -- a three-light signal and is just funding for a traffic signal, which allows for the funding of what we've been negotiating with the Fire Department to have installed. They're building a Fire Department substation, and we're looking to have one of those flashing lights there.

**CHAIRMAN SCHNEIDERMAN:**

All right? Legislator Caracappa making a motion to approve. Is there a second? Legislator Montano seconding. All in favor? Opposed? Abstentions? 1433 is **APPROVED (VOTE:5-0-0-0).**

**1556, Directing the Suffolk County Sewer Agency and Department of Public Works to finalize the creation of Sewer District No. 4 - Smithtown Galleria.**

**CHAIRMAN SCHNEIDERMAN:**

Is there a motion?

**LEG. CARACAPPA:**

Motion to approve.

**CHAIRMAN SCHNEIDERMAN:**

Motion to approve by Legislator Caracappa. I'll make a second. On the motion, any comment? Legislator Montano.

**LEG. MONTANO:**

I'll wait until I hear the comments. I'd be more comfortable to discharge without recommendation.

**CHAIRMAN SCHNEIDERMAN:**

Why don't you make that motion?

**LEG. MONTANO:**

Let's see what the --

**CHAIRMAN SCHNEIDERMAN:**

And the bill's sponsor is here too. I believe that Legislator Kennedy is here to speak on this.

**LEG. KENNEDY:**

Just taking a go at it guys. Let me know when it's time.

**CHAIRMAN SCHNEIDERMAN:**

Why don't we hear from Legislator Kennedy, the sponsor, and then we'll go to the Commissioner to comment.

**LEG. KENNEDY:**

Thank you, Mr. Chair. I appreciate you indulging me despite the fact that I'm not a member of the committee. Nevertheless, I've worked on this issue for the better part of, oh, probably year and a half, two years. And as a matter of fact, this is an issue that's been before this body going all the way back to 2000 or 2001. My predecessor, Legislator Crecca, worked with the district to go ahead and -- or with the Homeowners Association to establish Sewer District 4.

This follows on a policy to promote County assumption of privately established sewage treatment plants for the betterment, I guess, and protection of the residents and also for our aquifer and for our groundwater. As recently as the end of 2004, we, as a body -- and I say we, because at that time, I had been elect -- ratified and confirmed what the original rates and hearings were associated with the creation of Sewer District 4.

As recently as last August, the transfer -- or the final step to create the district would be the transfer of the ownership of the plant itself, the sewage treatment plant, by Avalon. Apparently, there was a decision on the part of the County Executive's Budget Office to revise the original rate that had been advertised and promoted for residents and to, in essence, quadruple that rate from the original 450 or \$470 per annum to, at the time last August, I believe it was 1020. The explanation offered by the department and by the County Executive's Budget Office in numerous conversation, meetings and dialog was that this was just embracing a policy that the department had elected to promote, which was inclusion of what was called a variety of different terms; non direct, soft or distant costs.

I engaged in dialog, in discussion with the department, I asked for an explanation, I met with a variety of different members. At no point did I ever get to the point where I could fully understand why 221 residents in a County sewer district were being asked to bear a portion of salary and equipment cost and other types of things for people who had nothing to do with the operation of that district whatsoever. Discussion went on.

Despite what Counsel for Galleria represented, I was not aware of a draft reso in January to go ahead and to, in essence, seek to dissolve the district. As you've heard from Counsel from the Homeowners Association, the residents very much want the formation of this district, they want the certainty, the regularity and the uniformity of County operation, because at that point, they're not getting that with it in private hands. And so when as a result of our most recent correspondence with the Commissioner -- and I will commend Commissioner Anderson, because he has gone quite some way to engage in dialog with me, unfortunately though, the dialog has always come back that the County Attorney's Office and the Department of Public Works are holding fast to this policy of non-direct costs being absorbed by districts.

In my review, I have never seen a resolution that this County Legislature has adopted that embraces that policy. Therefore, I bring this resolution before you asking that the department be directed to go forward with creation of the district as the direct rate was originally advised so we can have some finality and the residents can benefit from it.

I seek not to go ahead and embarrass this Committee or anybody else. And I'll ask Legislative

Counsel to please reaffirm on the record that this resolution would direct the department to implement that original rate.

**MR. NOLAN:**

Clearly the intent of the resolution is to basically finalize a process which has already begun with the costs that were part of the public hearing process. So that is the intent of the resolution, that's what is trying to be accomplished.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN SCHNEIDERMAN:**

If we can hear from Commissioner Anderson at this point.

**COMMISSIONER ANDERSON:**

First off, thank you. I'd like to say a few things, and then I will turn it over to Ben who certainly is much more familiar with this. To start off, I want to say that the department strongly opposes this legislation as Legislator Kennedy eluded to. We understand the concerns of the district residents. We understand that they -- who are paying a significantly lesser amount than what we're proposing. I would say in part that was because of the condition of the plant. They were more or less getting what they were paying for.

The report that was the basis of the 2004 hearing -- public hearing and the application to the State Comptroller admitted what we consider the divided costs or the spread costs. Those are costs for vehicles, manpower, minutia of the operation, which without getting into the individual details where you would be recording hours and time spent on a job by each individual, on an equitable basis we spread the cost among the districts based on the flow. These are necessary to forming the operating district.

If this legislation is approved, the district would be mandated to operate at a deficit of \$600 per unit. New York State Environmental Conservation Law mandates the district must be operated and maintained to provide maximum treatment. Therefore, the revised budget must be adopted or the district must be dissolved. If the district is dissolved, it can be expanded to help reduce the cost to the overall individuals. This is one of the main reasons that we are making the recommendation that we are.

If a resolution passes disallowing spread of the divided cost, if you will, it will have a significant impact on the County budget in that this is a normal operating procedure that we do. All the districts do this. As I said, you know, it was originally omitted from the original report, and I won't go any farther than that. But DPW estimates that if this was disallowed, it would result in a \$15 million aggregate deficit to all the sewer districts.

Lastly, I would like to say that, again, if this passes, it would place the burden of the deficit on the overall County budget, which I don't believe is something that's a legal option, but I would defer to the County Attorney for that. At this point, I'm going to turn it over to Ben.

**MR. WRIGHT:**

Just a few comments to fill in what Gil has said. This concept -- and I didn't realize it went back this far -- but we have this method of spreading these costs over the past 25 years. It's been computerized over the 15 or so, but it's in place for a very long time. And, you know, these spread costs are not non-direct costs. And I use myself as an example, our Director of Operations and Maintenance that takes care of 21 sewer districts, the secretaries that order manholes, etcetera, those are the costs that go into these spread costs that are very inefficient to try to track maybe even minute by minute, you know, how much time is utilized in order to assign it to that particular district.

We did ask the County Attorney for their opinion on this, and the response back was to separate these costs was really not practical in an accounting sense, and as long as the administrative head was doing this on a proportional basis for allocation, it was equitable. And that is consistent with the law. The consequences of this particular resolution, other than the deficit and making up that deficit in the future, is that the State Comptroller's Office always issues on an annual basis the approvals that are necessary on -- to cap what they would review as a project requiring their approval. For this particular year, any project that is above \$345 as an increase per unit would require their review and approval. It doesn't necessarily mean they wouldn't approve it, but \$345 is a lot different than going from 300 up to a thousand. So there's some speculation basically that they may not approve something like this.

In addition -- and obviously I'm an engineer not an attorney -- but looking at Article 5A of New York State County Law, there is an amendment or modification to plans, and I'll just read a sentence or two, because it implies to us that a public hearing is necessary on any change. And I'll leave out Board of Supervisors where it says Board of Supervisors or County Legislature. "When the County Legislature shall have established a district pursuant to this article and adopted a plan of service for such a district, such plan shall not be modified by the Legislature or any officer or the administrative head except as provided in this section. And where a plan is modified," which the case here where the \$470 is no longer the correct number, "a resolution calling for a public hearing should be held." And that is not the case here.

And our decision was that we're firm with this \$1070 rate and that we have to have a public hearing. And if that public hearing cannot have options, that dissolution is the procedure that we follow. And that's why we submitted a resolution which is in the process but not yet to the Legislature on dissolving the district. So we basically disagree with Mr. Schneider who represented the community about soft cause violating the law. We feel that this proportional method of spreading these costs is equitable and we're doing the right thing in evaluating the budget that's anticipated for the districts.

**MR. ZWIRN:**

If I might add, Mr. Chairman, just one line, it's that if the district is operated with this budget of \$470 per unit, then the deficit would have to be made up in 2009 by the people in that district, and that number would be approximately \$1750. So they'd be looking at something down the road that would be quite unpalatable.

**CHAIRMAN SCHNEIDERMAN:**

Let me hear from the bill's sponsor again, because some of the information being presented is certainly compelling. No one wants to see their sewer district taxes go up by such a significant amount.

**LEG. KENNEDY:**

Absolutely not, Mr. Chair. As a matter of fact, that's not my intent with this. But I think that it's important that -- and, you know, if the need be what I'll do is I'll consent to table this for one more cycle, although I would like to get it out with recommendation.

Part of what I had heard, and, Gil, our last correspondence was that you were indicating that you were going to go forward with filing the resolution in order to start the dissolution process. One of the elements -- there's several elements missing from the dialog here. First of all, is -- and Ben I would ask this as far as the County Executive's policy going forward -- I applaud the County Executive in supporting the creation of sewerage. And as a matter of fact, this department working with myself and Legislator Nowick is looking to help to expand Sewer District 6 so that we can advance the creation of sewerage for Main Street, Smithtown and Kings Park. In that respect, we're enjoying something that I guess is an acknowledgement that for us to function as a County, we're going to have to embrace sewerage and we're going to have to go forward with it, and we have to go forward with it in a concerted manner.

When we talk about the costs that go into each one of the existing sewer districts, anything in

excess of 3% gets absorbed by the Sewer Tax Stabilization Fund. It's only when we look at the creation of a new district do we have such a large and disproportionate cost that's looking to be advanced to the resident members. We have costs that go up in other places. But go beyond three, and they get the benefit of hitting the Sewer Tax Stabilization Fund. So in that respect I think what's happening is, is we're looking at a disproportionate burden that's being asked to be borne by these residents when you compare them with other sewer district members throughout the County. That's part of what needs to be resolved here.

I also will continue to disagree with this notion of spread cost. No matter how many years it's been in place, I still can't find a resolution that says that we embraced it. Last time I checked County Law, it said that we're the ones that created the Sewer Agency to begin with. You operate as an agent of us. So if it's a policy that's being promoted, presumably it's a policy we adopted. That's what I would offer as far as the response goes there. But I don't want to monopolize the committee's time. And if there needs to be more dialog, you know, I don't look to bear \$1700 to be advanced to this district either.

But I'm also going to say that if there's an intent on the part of the department to move forward with dissolution, then I'm going to come back to my colleagues and continue to raise this, because I don't think dissolution is the answer. Expansion of that district as we've already talked about is, in essence, not feasible. There's groundwater squirting through the ground. You can't talk about expanding a plant at capacity at this point to offset costs when there's only about 10,000 gallons worth of capacity if that much in this existing plant; is that correct?

**MR. WRIGHT:**

That's about the right amount of capacity.

**LEG. KENNEDY:**

So to talk about expansion to offset costs is like ether. That's another one of those things we can throw out there that's not real. That's why I don't think that this tact on the part of the department makes much sense. It's disingenuous.

**CHAIRMAN SCHNEIDERMAN:**

Okay. The only motion I have so far is a motion to discharge without recommendation and a second. Legislator Montano is making a motion to table.

**LEG. MONTANO:**

Motion to table.

**LEG. STERN:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator Stern. The tabling motion takes precedence. On the motion, Legislator Montano.

**LEG. MONTANO:**

I'll make the motion to table this, but I want to hear more on this. I know you sent me some correspondence. I'm not -- you know, some of this is actually going way over my head, but I would like to know more. I know we spoke about discharging it without recommendation, but I think this could suffer one more tabling. Thank you.

**LEG. CARACAPPA:**

On the motion.

**CHAIRMAN SCHNEIDERMAN:**

On the motion, Legislator Caracappa.

**LEG. CARACAPPA:**

I don't want to drag this on too long seeing that it is going to be tabled, but I'm getting a little confused by way of the back and forth here. Question is to -- is the Galleria privately held right now? It's not a County Sewer District as of yet, right, Ben?

**MR. WRIGHT:**

Correct.

**LEG. CARACAPPA:**

Commissioner.

**COMMISSIONER ANDERSON:**

Correct.

**MR. WRIGHT:**

Let me just add to that. It was formed back in 2004 by going through the State Comptroller's Office, but it was never transferred to us to be fully responsible because of title insurance and deed issues.

**LEG. CARACAPPA:**

And Galleria is the only user? Is there a consortium using this?

**MR. WRIGHT:**

There was Avalon -- yeah, there were three or four, yes.

**LEG. CARACAPPA:**

So there's a consortium of users. And 10,000 -- the 10,000 gallon capacity for the -- for the district -- well, soon to be district as currently is at capacity now by way of usage?

**MR. WRIGHT:**

No. The actual flows are, you know, somewhat lower than the permitted flows, but it's committed except for a small amount that would serve a couple of restaurants that are in the area.

**LEG. CARACAPPA:**

Coming on line soon or currently on line?

**MR. WRIGHT:**

They're on on-site systems right now.

**LEG. CARACAPPA:**

Oh, okay. They're on on-site so you're going to flip them. Okay. And you said it's committed for future development the way the consortium --

**MR. WRIGHT:**

There is talk of expansion possibly across the street at the Water Mill Conference Center, etcetera. So that would be in the future.

**LEG. CARACAPPA:**

So that's leading to my next question. So there's room for more hook-ups into the system and the potential for future development in that area is there.

**MR. WRIGHT:**

Well, the land is available for expanding the facility.

**LEG. CARACAPPA:**

Expanding the facility, understood.

**MR. WRIGHT:**

It would have to be expanded to --

**LEG. CARACAPPA:**

It would have to be expanded -- but you just said --

**MR. WRIGHT:**

There's a small amount for the restaurants. But there's enough land that's the sewage treatment plant site that could be expanded. The infrastructure could be expanded to take in the Water Mill or other connections in the area.

**LEG. CARACAPPA:**

So to take -- basically you are saying to take on any more capacity, you would have to expand the district.

**MR. WRIGHT:**

Yes.

**LEG. CARACAPPA:**

That's it. Because the policy has been -- by way of me knowing it in the County, it was any time you had private developers coming in, they built the plant, they have it as consortium, they all hooked in to it, and then eventually the County does take it over. And you look to do that in an effort to bring down the rates slowly but surely as you bring on more users in the future. You're saying that's not the case here because we don't have the capacity for future hook-ups.

**MR. WRIGHT:**

I didn't really say it that way. Maybe I'm not being clear on it. There's enough land available on the sewage treatment plant site to expand the treatment plant if it were expanded by somebody, such as the Water Mill, a developer, you know, then it could be a larger facility. And what's being talked about is about a 50% increase in the capacity. So, yes, you are right that it could expand the tax base, and that in theory would bring cost down.

**LEG. CARACAPPA:**

Okay. Right. But back to my original question. Is the capacity that's there now, is it at its max with its current users?

**MR. WRIGHT:**

It's committed except for a small amount, the 10 or 15,000 that Legislator Kennedy indicated.

**LEG. CARACAPPA:**

When you say committed, do you mean it's in use, the gallonage is flowing as we speak?

**COMMISSIONER ANDERSON:**

It's reserved.

**LEG. CARACAPPA:**

It's reserved.

**CHAIRMAN SCHNEIDERMAN:**

Conceptual approval.

**LEG. CARACAPPA:**

Okay. All right. That clears some of it up for me.

**LEG. KENNEDY:**

Mr. Chairman, if I can, I'll add a little bit more to this dialog.

**CHAIRMAN SCHNEIDERMAN:**

I'd like to move on at this point. It looks like the bill is being tabled.

**LEG. KENNEDY:**

It is.

**CHAIRMAN SCHNEIDERMAN:**

It will be discussed at another time.

**LEG. KENNEDY:**

Conceptual approval is there for 90,000 gallons. As to whether or not it could ever get there though, based on what the current conditions are, particularly with the elevated groundwater and groundwater continuing to rise, it is highly questionable whether that plant could ever be expanded. And there are elevated groundwater conditions right now in that neighborhood which we've addressed at some of these meetings. So we're talking about, you know, what makes sense economically and logically absent environmental conditions that are a true aberration at this point in this area. I'll leave it at that.

**CHAIRMAN SCHNEIDERMAN:**

There's a motion and a second to table. All those in favor? Opposed? Abstentions?

**LEG. CARACAPPA:**

Opposed.

**CHAIRMAN SCHNEIDERMAN:**

There's one opposition, Legislator Caracappa being opposed. 1556 is **TABLED (VOTE:4-1-0-0 - Opposed - Legis. Caracappa)**.

**1563, Appropriating funds in connection with removal of toxic and hazardous building materials and components at various County facilities (CP 1732). (Co. Exec.)**

**LEG. STERN:**

Motion to approve.

**CHAIRMAN SCHNEIDERMAN:**

There's a motion to approve by Legislator Stern, seconded by Legislator Eddington. Commissioner, anything you want to add to this?

**COMMISSIONER ANDERSON:**

Honestly, this is part of our usual -- you know, our Capital Program. I don't have any real details on the individual sites, but I can ask that information from Tom Laguardia, the Chief Deputy.

**CHAIRMAN SCHNEIDERMAN:**

The toxic and hazardous building material is asbestos?

**COMMISSIONER ANDERSON:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

Lead?

**COMMISSIONER ANDERSON:**

Mostly asbestos.

**CHAIRMAN SCHNEIDERMAN:**

Mostly asbestos. Lead is usually not part of the equation except in really much older buildings. Okay. So there's a motion and a second to approve. Any discussion? All in favor? Opposed? Abstentions? 1563 is **APPROVED (VOTE:5-0-0-0)**.

**1564, Appropriating funds in connection with modifications for compliance with Americans with Disabilities Act (ADA)(CP 1738). (Co. Exec.)**

**LEG. STERN:**

Motion to approve.

**CHAIRMAN SCHNEIDERMAN:**

There's a motion by Legislator Stern, seconded by Legislator Montano. All in favor? Opposed? Abstentions? 1564 is **APPROVED (VOTE:5-0-0-0)**.

**1568, Amending the 2007 Capital Budget and Program and appropriating funds in connection with safety improvements at various intersections (CP 3301). (Co. Exec.)**

Same motion, same second. Commissioner.

**COMMISSIONER ANDERSON:**

This resolution would appropriate \$100,000 to retain a consultant to design a round-about to mitigate traffic issues at the modified "T" intersection of County Road 31, which is Old Riverhead Road, and County Road 104, which is the Quoque Riverhead Road. The intersection experiences relatively high accident rates due to the roadway alignment and the rural setting as compared to other intersections of similar volumes. We support this resolution, obviously.

**CHAIRMAN SCHNEIDERMAN:**

All in favor? Opposed? Abstentions? **APPROVED (VOTE:5-0-0-0)**.

**1569, Appropriating funds in connection with the reconstruction of the Shinnecock Canal Locks, Town of Southampton (CP 5343). (Co. Exec.)**

I'll make a motion on 1569.

**LEG. STERN:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Seconded by Legislator Stern. Commissioner.

**COMMISSIONER ANDERSON:**

This resolution would appropriate 350,000 for the reconstruction of the Shinnecock Canal light -- locks. The locks, gates, anchorage units have deteriorated and failed twice over the last two years. We've done emergency Band Aid repairs. And actually, the last one was completed on June 12th of this year. This project will replace the anchorage units completely, replace rubber seals, repair deteriorated timbers, and apply coal tar poxy on the lock gates. And we support this resolution strongly.

**CHAIRMAN SCHNEIDERMAN:**

How much was the funding?

**COMMISSIONER ANDERSON:**

350,000.

**LEG. CARACAPPA:**

Quick question, Mr. Chairman.

**CHAIRMAN SCHNEIDERMAN:**

Legislator Caracappa.

**LEG. CARACAPPA:**

How are the locks looking for the upcoming season? Are they really -- you know --

**COMMISSIONER ANDERSON:**

They're holding their own. I mean, you know, they are fixed as best we can, but without a full replacement. And, you know, it's anybody's guess.

**LEG. CARACAPPA:**

We've got to get it done.

**CHAIRMAN SCHNEIDERMAN:**

All in favor? Opposed? Abstentions? **APPROVED (VOTE:5-0-0-0).**

**1570, Authorizing the filing of an application with the Federal Transit Administration, an Operating Administration of the United States Department of Transportation, for Federal Transportation Financial Assistance for mass transportation projects for Suffolk County authorized by 49 U.S.C. Chapter 53 Title 23 United States Code and other Federal Statutes administered by the Federal Transit Administration. (Co. Exec.)**

Is there a motion?

**LEG. STERN:**

Motion to approve.

**CHAIRMAN SCHNEIDERMAN:**

Motion by Legislator Stern, seconded by Legislator Eddington. Any questions? All in favor? Opposed? Abstentions? Motion **APPROVED (VOTE:5-0-0-0).**

**1574, Amending the 2007 Capital Budget and Program and appropriating funds in connection with pedestrian safety improvements on CR 85, Montauk Highway in the vicinity of Hiddink Street, Sayville, Town of Islip (CP 5077). (Pres. Off.)**

**CHAIRMAN SCHNEIDERMAN:**

Same motion, same second. Commissioner, anything we need to know in particular about this?

**COMMISSIONER ANDERSON:**

Other than it's \$150,000 for pedestrian improvements along Montauk Highway in the vicinity of --

**CHAIRMAN SCHNEIDERMAN:**

Sidewalks basically, crosswalks.

**COMMISSIONER ANDERSON:**

Sidewalks and a pedestrian traffic signal.

**CHAIRMAN SCHNEIDERMAN:**

All in favor? Opposed? Abstentions? 1574 is **APPROVED (VOTE:5-0-0-0).**

**1575, Establishing a written notice policy for Suffolk County Accessible Transportation Services. (Schneiderman)**

I'll make a motion to table, seconded by Legislator Stern. All in favor? Opposed? Abstentions? 1575 is **TABLED (VOTE:5-0-0-0)**. I'm going to be making an amendment to the bill.

**1580, Approving the purchase of six (6) used snow fighting trucks in accordance with Section 186-2(B)(6) of the Suffolk County Code. (Co. Exec.)**

**LEG. EDDINGTON:**

I'm just looking back at 1574, we said pedestrian safety improvements on CR 85, Montauk highway. In my area, Montauk Highway is CR 80.

**CHAIRMAN SCHNEIDERMAN:**

That's just a simple technical error, a Scrivener's error. Let's hear from Counsel. I don't think that affects the bill.

**MR. NOLAN:**

It's incorrect in the title. I think we can get that corrected as a Scrivener's error.

**COMMISSIONER ANDERSON:**

I just received information from Bill Hillman, my Chief Engineer. Montauk Highway does go under two numbers. And at this location, it is actually County Road 85, this portion of it.

**LEG. EDDINGTON:**

Excellent. Thank you.

**MR. ZWIRN:**

Never mind.

**CHAIRMAN SCHNEIDERMAN:**

Good to have you around, Bill. You earn your pay. All right.

**1580, Approving the purchase of six used snow fighting trucks in accordance with Section 186-2(B)(6) of the Suffolk County Code.**

All right. We're taking the snow head on here. We need a motion.

**LEG. STERN:**

Motion to approve.

**CHAIRMAN SCHNEIDERMAN:**

Motion to approve by Legislator Stern, seconded by Legislator Eddington. All in favor? Opposed? Abstentions? **APPROVED (VOTE:5-0-0-0)**.

**1581, Transferring Assessment Stabilization Reserve Funds to the Capital Fund, amending the 2007 Operating Budget, amending the 2007 Capital Budget and Program, and appropriating funds for engineering services and construction for an infiltration and inflow study/rehabilitation in Suffolk County Sewer District No. 3 Southwest (CP 8181). (Co. Exec.)**

Same motion, same second. Commissioner, you want to fill us in a little on this.

**COMMISSIONER ANDERSON:**

We're in support of this resolution which we submitted, which would provide the funding necessary for design and construction improvements outlined in the original project scope, which is the elimination of -- I'm sorry -- is to eliminate sewer system areas that are prone to entrance of extraneous flows or infiltration and have shown signs of deterioration. This is the first step in the

program to identify and repair 57 -- 57 square mile service are within Sewer District Number 3 and would include pipelining, grouting, manhole rehabilitation and root removal.

**CHAIRMAN SCHNEIDERMAN:**

And this is that 477, or the quarter penny funding, right, that's the Sewer Stabilization Fund? That's where it comes from, I believe.

**COMMISSIONER ANDERSON:**

Yeah. The Assessment Stabilization Reserve Fund.

**CHAIRMAN SCHNEIDERMAN:**

Right. Any questions? All in favor? Opposed? 1581 is **APPROVED (VOTE:5-0-0-0)**.

**1582, Calling a public hearing upon a proposal to increase the annual rate charged for sewage treatment in the proposed Suffolk County Sewer District No. 2 - Talmadge Woods in the Town of Brookhaven. (Co. Exec.)**

Same motion, same second. Commissioner.

**COMMISSIONER ANDERSON:**

Again, this is a similar situation as the one we discussed before. However, because of the size of the district itself, it's a much less impact. Rather than \$600, it turns out to be \$85. We held our public hearings, and the community was in favor of finalizing the district.

**CHAIRMAN SCHNEIDERMAN:**

Okay. There's a motion and a second. All in favor? Opposed? Abstentions? 1582 is **APPROVED (VOTE:5-0-0-0)**.

**1583, Appropriating funds in connection with the dredging of County waters (CP 5200). (Co. Exec.)**

Same motion, same second. Commissioner, any additional information?

**COMMISSIONER ANDERSON:**

This provides for 110,000 for engineering in connection with the dredging of County waters, specifically the East-West Channel in Babylon, David Park in Brookhaven, and Coecles Harbor in Shelter Island.

**CHAIRMAN SCHNEIDERMAN:**

These are monies that were budgeted for these type of purposes?

**COMMISSIONER ANDERSON:**

That's correct.

**CHAIRMAN SCHNEIDERMAN:**

Okay. There's a motion and a second. All in favor? Opposed? Abstentions? 1583 is **APPROVED (VOTE:5-0-0-0)**.

**1615, Authorizing the County Executive to enter into an agreement with Deer Park Enterprise, accepting a payment of money in lieu of performance of certain mitigation measures, amending the 2007 Capital Budget and Program and appropriating these funds in connection with the intended mitigation measures. (Co. Exec.)**

**LEG. STERN:**

Motion to approve.

**LEG. EDDINGTON:**

Second.

**CHAIRMAN SCHNEIDERMAN:**

Same motion, same second as last time. Any discussion? Maybe we can use some more information, Mr. Anderson.

**COMMISSIONER ANDERSON:**

This agreement -- as part of this agreement, the County would accept a payment of \$500,000 in lieu of certain mitigation measures that we would require from the developer of Tanger. The funds provide for \$100,000 towards consultant service for the review of the Heartland Town Center, \$100,000 for traffic studies of roadways impacted by Tanger Outlet Center after it's fully occupied, and lastly, for \$300,000 with regard to design of a connector roadway between Long Island Avenue and G Road up near the Heartland Town Center.

**CHAIRMAN SCHNEIDERMAN:**

How much money was it?

**COMMISSIONER ANDERSON:**

\$500,000.

**CHAIRMAN SCHNEIDERMAN:**

That the Tanger developers are paying to the County?

**COMMISSIONER ANDERSON:**

Yes.

**CHAIRMAN SCHNEIDERMAN:**

Is this the same application that was tabled at the Sewer Agency, right? The extension of time was tabled, that was the same thing, wasn't it?

**COMMISSIONER ANDERSON:**

I believe it was for the same facility, but I'm -- I'm pretty sure it was, yeah.

**P.O. LINDSAY:**

It's been approved now.

**COMMISSIONER ANDERSON:**

Right. It's been approved now.

**CHAIRMAN SCHNEIDERMAN:**

Oh, has it now gone through?

**COMMISSIONER ANDERSON:**

Yeah, it went through two meetings ago.

**CHAIRMAN SCHNEIDERMAN:**

Okay. No connection. All right. Any discussion on this?

**P.O. LINDSAY:**

No.

**CHAIRMAN SCHNEIDERMAN:**

Everybody's keeping quiet at this point. There's a motion and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE:5-0-0-0).**

**1617, Authorizing the execution of an agreement by the Administrative Head of Suffolk County Sewer District No. 3 - Southwest with Duryea Residential Development (HU-1521). (Co. Exec.)**

**CHAIRMAN SCHNEIDERMAN:**

Same motion, same second. Commissioner.

**COMMISSIONER ANDERSON:**

This resolution, which we support, would allow the connection of the Duryea Residential Development to connect to the Southwest Sewer District. Capacity exists and a connection -- I'm sorry. It a 36 -- let me try this again. The project has 36 planned retirement community units and a clubhouse and would discharge approximately 5500 gallons per day to the district. The district has capacity, and a connection fee of nearly 82,000 would be collected.

**CHAIRMAN SCHNEIDERMAN:**

All right. There's a motion and a second. Any discussion? All in favor? Opposed? Abstentions? 1617 is **APPROVED (VOTE:5-0-0-0)**.

**1618, Appropriating funds in connection with improvements to water supply systems (CP 1724). (Co. Exec.)**

**CHAIRMAN SCHNEIDERMAN:**

Same motion, same second. Commissioner, and -- can you give us some more particulars?

**COMMISSIONER ANDERSON:**

This resolution appropriates \$60,000 for the installation of back flow preventers at a number of County facilities, namely, Probation's Old Wings, the FRES garage, the Suffolk County PD motorcycle garage, Suffolk County Police Department main police museum, FRES pumper test building and the DPW salt barn as well as Gabreski Airport master meter at the north end of the facility.

**CHAIRMAN SCHNEIDERMAN:**

Okay. Same motion, same second. All in favor? Opposed? Abstentions? 1618 is **APPROVED (VOTE:5-0-0-0)**.

**1620, Authorizing transfer of six (6) surplus County computers and two (2) surplus County printers to RSVP. (Kennedy)**

**CHAIRMAN SCHNEIDERMAN:**

Motion by Legislator Montano, seconded by Legislator Stern. All in favor? Opposed? Abstentions? 1620 is **APPROVED (VOTE:5-0-0-0)**.

**1621, Authorizing transfer of two (2) surplus County computers and one (1) surplus County printer to the Smithtown Parkinson's Therapy Association. (Kennedy)**

**LEG. MONTANO:**

Motion.

**CHAIRMAN SCHNEIDERMAN:**

Same motion, same second. All in favor? Opposed? Abstentions? **APPROVED (VOTE:5-0-0-0)**.

**1623, Adopting Local Law No. 2007, A Local Law to reduce the emission of pollutants from diesel-fueled motor vehicles operated by or on behalf of Suffolk County. (Cooper)**

**CHAIRMAN SCHNEIDERMAN:**

This has to be tabled for a public hearing, so there's a motion by Legislator Stern to table, seconded

by Legislator Eddington. All in favor? Opposed? Abstentions? 1623 is **TABLED (VOTE:5-0-0-0)**.

That concludes our agenda. We are adjourned. Thank you.

**(\*THE MEETING WAS ADJOURNED AT 3:38 P.M. \*)**

**{ } DENOTES BEING SPELLED PHONETICALLY**