

**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, July 31, 2007.

MEMBERS PRESENT:

Legislator Jay Schneiderman - Chairman
Legislator Steve Stern - Vice-Chairman
Legislator Jack Eddington
Legislator Joseph Caracappa
Legislator Rick Montano
Presiding Officer Lindsay - Ex Officio Member

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
Debra Alloncius - AME
All Other Interested Parties

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

CHAIRMAN SCHNEIDERMAN:

I'd like to call the meeting to order this 31st day of July, 2007. Please rise and join us for the Pledge led by Legislator John Kennedy.

SALUTATION

CHAIRMAN SCHNEIDERMAN:

If you wish to be heard in front of the committee, please fill out a yellow card if you haven't already done so. I have one card at this point. I'd like to bring forward -- this may not be for this committee I do have one card. Okay. It's Mark Schneider speaking on Resolution 1556.

MR. SCHNEIDER:

Good afternoon. Thank you for allowing me to speak on this resolution. I was here the last time for the matter on the agenda. I just had a couple of points. I represent Windcrest Galleria. This is a large homeowners association which is the largest user in the community, which is tied in several units as well. The homeowners Board of Directors support the passing of this resolution, and the last time I was here I made that representation.

Today I'd like to submit to you a petition signed by approximately 115 residents, homeowners, of the Homeowners Association in support of this resolution. I'll pass this up to have this put as part the record. I'll comment on a letter, which I understand was submitted to Honorable Jay Schneiderman from the Department of Public Works. And I know we spoke briefly about this the last time; soft costs, which both myself and Legislator Kennedy know are not factors into the cost put forth to the residents.

(*DUE TO A TECHNICAL DIFFICULTY, CERTAIN TESTIMONY WAS INAUDIBLE*)

(*VERBATIM TESTIMONY CONTINUES*)

CHAIRMAN SCHNEIDERMAN:

Thank you. Is there anyone else who wishes to be heard? Okay. At this point, Commissioner Anderson, the Commissioner of Public Works to step forward. Gil, before I move the agenda, is there anything you wish to alert us to or comment on?

COMMISSIONER ANDERSON:

No.

CHAIRMAN SCHNEIDERMAN:

We'll start with Resolution **1103, Directing the Department of Public Works to expand the 7D Bus Route (ROMAINE)**.

A quick update, if you will, Commissioner.

COMMISSIONER ANDERSON:

As I stated last few meetings, we're working with local civic groups as well as the fox within the Yaphank Industrial Park to develop a schedule developed that schedule at this point it will be a time in the early morning where a bus drops off or picks up people from the industrial park. In the afternoon period bus go into the industrial park. It's going to run -- it's going to cost the County \$30,000 for additional service. We just want to make you aware of the cost of people picked up somewhere and brought in. That's not part of part of our current operating cost.

CHAIRMAN SCHNEIDERMAN:

How do you intend to pay for that?

COMMISSIONER ANDERSON:

Well, at this point -- I'll defer Bob Shinnick if you don't mind.

MR. SHINNICK:

Remainder of the year, the cost would be about 30,000. But for full year's operation, \$60,000. The service that we propose to provide is two bus routes in the a.m. and two in the p.m. This is based upon when the largest number of people come to work and leave work in the afternoon.

CHAIRMAN SCHNEIDERMAN:

Can I ask, I know this is a noble project, an additional route. I've been asking for some time during the summertime to get a Sunday bus in the mornings and afternoons so employees can get to work and back from work. I think we had cost that out to a thousand dollars as well. What's happening with that, anything?

MR. SHINNICK:

We're working on that.

CHAIRMAN SCHNEIDERMAN:

What?

MR. SHINNICK:

A consultant is in the process of developing a technical report analyzing the system, meeting with the Steering Committee within the next several weeks. They're also performing a series of meetings to various walks of life in Suffolk County, a one hour meeting. Not all the same meetings, a series of meetings.

CHAIRMAN SCHNEIDERMAN:

Come to perhaps the next meeting of this committee and the Legislature.

MR. SHINNICK:

Sure.

CHAIRMAN SCHNEIDERMAN:

Catherine in my office will make that happen.

MR. SHINNICK:

Yes.

CHAIRMAN SCHNEIDERMAN:

Any other questions? Motion to table. Legislator Lindsay.

P.O. LINDSAY:

Without an accompanying offset, I mean, I don't disagree with expanding bus service without accompanying offset this passed, you know, how would it be paid for?

MR. SHINNICK:

We have a cost estimate. We're looking at various components of the current budget now, whether or not there's an actual risk to cost anticipated for this year, whether repairs are the same rate we anticipate in the budget.

P.O. LINDSAY:

We don't have the money in that line.

CHAIRMAN SCHNEIDERMAN:

We might have money.

P.O. LINDSAY:

My point is that if you're serious about doing this, an accompanying offset with it is not a huge amount of money, \$30,000.

CHAIRMAN SCHNEIDERMAN:

Let's table this bill as we have in the past.

P.O. LINDSAY:

Just as a suggestion, the sponsor move the offset.

CHAIRMAN SCHNEIDERMAN:

Internally.

COMMISSIONER ANDERSON:

Just got the system within the day so we can provide it to the Legislature.

CHAIRMAN SCHNEIDERMAN:

Seems like you are providing 7-D. Bus route without the bill passing.

(*DUE TO A TECHNICAL DIFFICULTY, CERTAIN TESTIMONY WAS INAUDIBLE*)

(*VERBATIM TESTIMONY CONTINUES*)

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Eddington, seconded by Legislator Stern. All in favor? Opposed? **TABLED (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 (KENNEDY).

CHAIRMAN SCHNEIDERMAN:

Lets at least get a motion and a second, and I'll allow Legislator Kennedy to speak in defense of his bill. I'll make a motion, do I have a second?

LEG. EDDINGTON:

I make a motion to table.

CHAIRMAN SCHNEIDERMAN:

There's a motion to table.

LEG. CARACAPPA:

What was your motion, Mr. Chairman?

CHAIRMAN SCHNEIDERMAN:

Motion to approve.

LEG. CARACAPPA:

I'll second the motion to approve.

CHAIRMAN SCHNEIDERMAN:

Okay. So there's a motion and a second. There's also a motion to table.

LEG. STERN:

I'll second it.

CHAIRMAN SCHNEIDERMAN:

There's a second to table. Okay. So the bill -- right now the tabling motion is before us. Let me allow the sponsor first to speak, and then also to respond to the concerns that are raised.

LEG. KENNEDY:

Thank you, Mr. Chair. I appreciate it. As a matter of fact, you heard earlier from the attorney for Windcrest the measure of support and desire on the part of the residents that make up this district to actually go ahead and have final formulation is steadfast. And they are seeking to go ahead and get the benefit of a policy that we as a County have promoted, I guess, for quite a period of time before I joined this body.

There has always been a desire to go ahead and have the County take over the operation of private sewage treatments in districts because of the standardization and benefit that we all derive from improved operations in treatment of waste and also the relieve that we provide to the aquifer. So I don't think that there's any deviation in policy by looking to promote this. The essence of the woe, if you will, is the cost associated with going forward on this. Each one of you on this committee received, I believe, a copy of the six page memo that Commissioner Anderson put forward on this with the department's latest perspective or view regarding non direct or spread cost.

You know, being in the position we're in, we're called on to looked at a variety of different issues when it comes to matters of money. And certainly responsibility about operations of a budget in general is a critical matter. But that doesn't mean that we have to abdicate our role of advocacy for our Legislative District constituents. This is one place where I think we're seeing a policy that's been embraced by the department and upheld by the Budget Office, which works a hardship on district residents.

I still, at this point, cannot digest nor understand or even believe that all of the costs that are being allocated to these 21 sewer districts are legitimate and bonified and legal. As a matter of fact, I've even had conversation Comptroller Sawicki's Office because of my concern. Just because it is easier to put a percentage of overhead costs that come out of Yaphank on our districts doesn't make it right. I think what we're looking at here in this case is a district that has been -- originally gone through all of those statutory steps necessary for creation and abandonment of that original representation in the 11th hour.

And the thing that Mr. Anderson's memo does not speak to -- and Legislative Counsel knows this -- sewerants can only be calculated on a very specific set of criteria, and Section 451 of General Municipal Law speaks to that, and that is not in this memo. It does not go to substantiating what is legitimate to put on a district and what is not. So I believe that it is important that this issue move forward. I think that this is a matter that the full body needs to discuss. I believe that all of us, all 18 of us, have districts, sewer districts, within our Legislative Districts, and it's important that we all take that hard look at \$15 million that's being spread out to a relatively small number of individuals who reside within those districts.

I'd ask my colleagues to consider approval, or if not that, then perhaps contemplate a discharge without recommendation so that we can at least have the full body discuss this. The administration has already manifested its intent by filing a resolution to dissolve the district. That's the antithesis of what it is we seek to promote. So I'd ask my colleagues to go ahead and to contemplate that and consider it and go forward with it.

CHAIRMAN SCHNEIDERMAN:

John, I just want to be clear. The residents that would be in this sewer district, you have -- what is it -- 51% that want it to be created? Isn't that the way the law works, kind of, if you have the numbers --

LEG. KENNEDY:

Mr. Chair, we've had about half dozen resolutions that represent the original number of residents who expressed a desire to be a part of it, we had a public hearing, we had an original rate established, we had a subsequent correction resolution to address the rate and the boundaries of the district. We have counsel and residents here in the audience who can speak to it as well. They have never once expressed the desire not to be formulated. What they've said is, "Don't -- don't bury us with costs that don't properly lodge in Smithtown at Galleria." They do not have to bear the cost of some heavy bucket loader or pay triple and quadruple for sludge removal when, in fact, they have a finite amount that comes out of that district. I find some of the rational in this briefing memo somewhat insulting, to be honest with you. If I practiced law the way we have these costs, I'd be Upstate in Ossining. I can't tell five clients 20% of my time gets spread amongst all five of you, you pay the vig. That doesn't work.

CHAIRMAN SCHNEIDERMAN:

Is the only way to create this through the County, or can they create their own sewer district, put in their own plant and operate it?

LEG. KENNEDY:

There's an STP there now, Mr. Chair. As a matter of fact, a 178,000 gallon STP.

CHAIRMAN SCHNEIDERMAN:

So they basically just want the County to take that over.

LEG. KENNEDY:

Right. I want the County to conclude a process that was commenced some six years ago, seven years ago and to finalize creation and to do it at a rate that does not work a hardship on these residents.

CHAIRMAN SCHNEIDERMAN:

Is there a legal --

LEG. KENNEDY:

Commissioner Anderson and I have had many, many conversations as has Mr. Wright and has Ms. Conway. We have in my office, we have met other places, we've had dialog on this for the better part of nine or ten months. The other thing that I'll ask BRO speak to is, is why it is that we cannot get access to Sewer Tax Stabilization Fund in order to minimize or mitigate what is a very disproportionate burden that would be left on these residents.

MS. GAZES:

My understanding is the basic policy has been that the Assessment Stabilization Reserve Fund not be used until there is -- I'll call it a track record -- or a couple of year time period that's passed before they see the rates and then can access that pot of money to stabilize them or keep them at 3% increases.

LEG. KENNEDY:

Thank you. I appreciate that. Now I'll ask you, Mr. Chair, my colleagues and anybody here from DPW, when did this Legislature ever embrace that policy? Maybe Legislative Counsel can tell us. When was that codified?

MR. NOLAN:

I think that particular policy has never been specifically adopted by this Legislature. We set up that fund through a referendum, but the policy that the Budget Office has used, you know, the 3%, is something that they did. And I don't think the Legislature has ever passed on that.

LEG. KENNEDY:

And what does County Law say who is the body empowered to set policy in this area?

MR. NOLAN:

When it comes to sewer rates, the Legislature has the power to review and approve sewer rates in the districts.

LEG. KENNEDY:

So then the question goes to why it is that if it's necessary for the -- for DPW to have this large increase off the current 250, \$300,000 per annum rate -- if there's a need to continue to abide by that and promote it, why can't it be mitigated by access to the Sewer Tax Stabilization Fund?

CHAIRMAN SCHNEIDERMAN:

I don't know the answer to that, but it seems from Counsel that perhaps we could override the decision there and cause that money to be used in this fashion; is that correct, Counsel?

MR. NOLAN:

I think the Legislature could.

LEG. KENNEDY:

Again, Mr. Chair, then I'll go back to what my request to this committee is --

CHAIRMAN SCHNEIDERMAN:

Can I also, John, ask are there other remedies? If there's a disagreement as to what the fair cost of the operation are, if DPW is saying this in a particular number, your figures are showing something else, what is your recourse? Is there some kind of arbitration or an administrative type of procedure where an arbiter could look at it, an impartial individual, and say these are -- this is the fair number?

LEG. KENNEDY:

Legislative Counsel, when he has an opportunity, will speak to the appeals process, but that's only after a rate has been adopted and finalized and a grieved resident can actually go ahead and appeal to Ways and Means. That's set out in County Law. We're at that point now, though, Mr. Chair, where it appears that the administration is attempting to frustrate that appeal by seeking dissolution rather than going forward with the rate as it's imposed.

CHAIRMAN SCHNEIDERMAN:

I'm a little bit confused, because the County has long sought to consolidate rather than having a lot of separate operators of sewage treatment plants to kind of bring these all under, you know, single stewardship.

LEG. KENNEDY:

I yield to the decades of experience on this horseshoe.

CHAIRMAN SCHNEIDERMAN:

Let's here from DPW. I think Mr. Wright and Commissioner Anderson, if you could address some of the concerns.

COMMISSIONER ANDERSON:

I appreciate that. In response to some of the comments by the Legislator, the fact that this is, as he stated, the latest view of the department, it's not. This has been our procedure in establishing district and district costs and how the revenue -- or how the costs are paid for. We have to -- under State Law, under County Law, we have to maintain a budget, we can't go into a deficit. All these costs, whether they're direct costs or the spread costs are equitable. The spread costs are developed equitably as was detailed in my memorandum to you.

You know, we establish a fee system. The Legislature has, I believe, approved it. It was omitted in the two -- two budgets that were set up previously; this being one, I believe Talmadge was the other one. We you view all districts equally. The fact that -- as the Legislator has requested -- that

we go into minutia of every minute is burdensome to say the least, but it's also not required. We base the fees on a percentage based on sewage flow. And Ben and Laura can certainly go into that better than I can. We can't spread or pass those costs on to the population of the County that aren't within sewer districts, because they're not within sewer districts.

CHAIRMAN SCHNEIDERMAN:

Can I ask, Commissioner, if the residents within the sewer district were willing to take on the increased fees, why then would you be opposed to transferring the operation of the plant from and independent to having the County manage it?

COMMISSIONER ANDERSON:

Well, the problem isn't so much that they're not willing to take over the plant. We had our public hearing, we stated what the fees -- albeit the second time -- we stated what the fees are going to be. The community is now saying, "We don't want to pay those fees, we do want a district." Unfortunately, we can't have it both ways.

CHAIRMAN SCHNEIDERMAN:

Can we have a clarification, maybe from the sponsor, are they willing to pay higher fee or are they not willing to pay the higher fee?

LEG. KENNEDY:

Clearly, as a matter of fact, I don't think that they're -- it's not a matter of willingness, it's a matter of them saying, where's the equity, where's the justification.

CHAIRMAN SCHNEIDERMAN:

Well, let's say it is fair. Let's Commissioner Anderson is right and those fees that were calculated are the true cost, you know, I know that they may want to challenge that at a later point, but at the offset are the willing to accept the County taking this over if it means pay they would have to pay that higher fee?

LEG. KENNEDY:

Again, I would probably ask, if I can, Counsel -- since we have a representative of the Homeowners Association and Counsel, I would ask for them to step forward. There's no need for me to go ahead and to hypothesize what they can give you directly. With the Chair's permission, I'd ask if they could --

CHAIRMAN SCHNEIDERMAN:

I think it's essential to this discussion to have that information.

LEG. KENNEDY:

I'm sure they'd welcome the opportunity to join, Mr. Chair.

MR. SCHNEIDER:

Thank you very much for giving me the opportunity to respond to the question. The answer is that the initial rate that was proposed was approximately double what they're presently paying a private operator to operate it. If the actual costs are higher than what they're presently paying, which as I just said, what was initially proposed was double essentially -- approximately double what they were paying, they have no problem with that. They have a problem with a number which clearly is not backed up by anything. It's just, let's wing it, it's 2.12% this month, it's 1.5% another month.

And by the way, they didn't have a public hearing on the increased rate. They had an informational meeting for the homeowners to advise them as to what they were going to do and essentially were hoping that the people would say, "You know what? It's too high. We don't want you to take this over." No. The communities want the County to take it over. There is consistency, there is a better level of service, the sewage treatment plants historically run better when they're operated by County.

These tax paying residents that want the County to take it over. But they don't want to have the County take it over and then get stuck with fees that don't bear any relationship to the operation of their plant. If the costs that are directly related to the operation of their plant are higher than what they were paying, they had no problem with that and still have no problem with. But if they're fictitious costs, because we're saying, "You know what? We think this month it sounds like 2.12% of those soft costs belong in your plant, but, oh, we looked at it again, maybe it's 1.5. And by the way, we're basing upon Nob Hill, which is not the same community, doesn't have the same flow, is years and years older than what it was." That's unfair and it shouldn't be permitted.

The reason why they're doing it is because they're limited in their increases every single year after the set the base rate. Once they set the base rate, the public has a reasonable basis to rely on where their fees might go. So they're trying to get a high enough number so that they could, in essence, start out with a higher number and not worry -- have to not worry about what the costs are. But you know what? We've heard it here today that, well, for three years they don't -- they don't deal with it for three years until they've seen it operate for three years. This plant has operated for more than three years. We know what the actual costs are. And while I respect the fact that it costs more for the County to operate it because of union labor costs, etcetera, there is a number in the budget that was proposed for actual labor costs. The communities have no problem with that.

By the way, walking in late with Mr. Quigley, who is the board president over at Coventry Village, which is the other community which utilizes this facility -- he may or may not have spoken -- but I'll imagine he'll adopt what I've said, and I think that he would subscribe to what I'm saying. The communities are not asking the County to operate it at the cost of a private operator. What they're asking the County to do and what we're asking the Legislature to do is to see to it that the rate that's adopted is the proper rate relating to the operation of this facility. They fact that they've done it this way with other plants in the past doesn't make it right. We all know that if we drive 70 miles an hour on the road every day, when the cop pulls us over, we can't say, "But we've done it for three months, Officer and we've never had a problem." He's going to say, "But the law 70 miles an hour is against-- is over the speed limit."

CHAIRMAN SCHNEIDERMAN:

If I can go then to Ben. You know, the numbers that -- did you come up with the numbers --

MR. WRIGHT:

Laura put the numbers together.

CHAIRMAN SCHNEIDERMAN:

Okay.

MR. WRIGHT:

And did an excellent job defining what has been in place for many years.

CHAIRMAN SCHNEIDERMAN:

Can maybe we hear from Laura too in terms of how these numbers were compiled and whether you feel that they're solid or whether there are some issues that need to be revisited on the numbers.

MS. CONWAY:

Well, the policy that we have as far as establishing the sewer district rate is consistently applied in calculating all of them. Since the early '80s this has been done.

CHAIRMAN SCHNEIDERMAN:

Has that formula proved to be accurate -- an accurate projector remember of the real costs?

MS. CONWAY:

It's been reliable, yes.

CHAIRMAN SCHNEIDERMAN:

Okay.

MS. CONWAY:

We take the actually -- since this is a new district to the County, we would take a district that's similar in size and use those operating cost. We're using and estimating the budget for the Galleria 2005 actual operating expenses for -- from Nob Hill, 2005 expenses before Katrina.

CHAIRMAN SCHNEIDERMAN:

That's a similar size plant at Nob Hill?

MS. CONWAY:

Based upon flow. Maybe the number of units are different. And that was part of the problem with this as well. We just recently -- we're, right now, formalizing Talmadge Woods, which has similar -- which has a similar operating cost in total, but they have more residents. So their annual cost is less. The cost of this district has to be born by the district users.

CHAIRMAN SCHNEIDERMAN:

Why would our costs be twice that of a private operator? Any explanation for that?

MS. CONWAY:

From conversations that Ben and I have had about it, his staff, they use -- they go to the plant every day. They check on it, they do maintenance every day, they do samplings. The homeowners have complained about the current operator not operating -- the plant not operating well, they're not being responsive to their needs. We're on-call 24 hours a day. There's always -- and there are some labor and OSHA requirements as far as more than one person having to be on-site when they do site visits.

MR. WRIGHT:

Yeah. Just if I can add to that. Because of safety requirements, if there's a lot of confined space areas that are within a treatment plant, we often have more than two people because of the system that's set up where, you know, somebody's in the hole, somebody else is available to go after them if something goes on. And then there's another safety officer. So that adds a significant amount of cost. And the largest element of these budgets is really the labor costs.

CHAIRMAN SCHNEIDERMAN:

So provide additional labor, and our labor is probably more expensive with our benefit packages.

MR. WRIGHT:

Yeah.

CHAIRMAN SCHNEIDERMAN:

Legislator Stern and Legislator Lindsay is on the list. Bill, you want to go first?

P.O. LINDSAY:

This is an issue that's troubling to me. If this plant has been running for three years, four years, why don't we use actual numbers of that plant instead of comparing it to a similar plant?

MR. WRIGHT:

Let me start with the response to that. There are many things that go on in a treatment plant that require attention; sludge was mentioned earlier. If an operator has a set contract amount and he wants to cut corners, you know, as some of the private sector might do, you can adjust the percent solids or the amount of volume that you're going to have taken away from the plant at a particular frequency. We try to maximize that, and often it might cost a little bit more. Power is an issue with

meeting the effluent limitations, because the largest utility cost is the aeration system that's the nucleus of the treatment plant. And if you skimp on that, you might be able to just get buy, you might not be able to get buy. But, you know, that bay cost is often higher with us than it is with the private sector. So there's a number of elements in the budget that relate to how a system is operated and how effective it's going to be, and usually those numbers are higher.

P.O. LINDSAY:

Yeah, but in all due respect, Ben, don't we the records, the actual operating records from this plant, in terms of labor, in terms of utility cost? And, I mean, if you had to put a factor on it to increase it because of our workers might work safer than a private operator or whatever, why wouldn't you start with that base instead of trying to find a similar plant that's older and use that as way of justifying your numbers.

MR. WRIGHT:

The older plant is operating very well. It's got a Capital Project associated with it that's not really part of the relationship between that plant and Galleria. But we've found in the past, not necessarily with this one, because I'm pretty sure we didn't look at -- you know, we may have -- but we didn't utilize, you know, the budget for Galleria in developing ours, because we've had experience in the past where there hasn't been a direct relationship. We've been better off taking a facility that's close to that size and the type of process. And I know that the 1.5 or the 2.1 that's been used, there were four other districts besides Sewer District 15 that were in the same ballpark as Galleria, and they were all, you know, around 2% of that particular, you know, line item in the budget. And Laura, that number is not a large number compared to the overall budget, I don't believe.

MS. CONWAY:

No, it's not.

P.O. LINDSAY:

Well, I mean, we're specifically talking about this plant, but I have a problem with the overall policy of the whole thing. I mean, on a macro level, we say that we have to increase sewerization in Suffolk County, and the best way to do it is to create more districts, combine districts, operate them centrally for more efficiency, but yet on specific levels -- and it just doesn't happen here -- I mean, every time we -- you know, a community looks for us to take over a district, we throw at them phone book numbers to scare them away. We don't encourage them.

MR. WRIGHT:

It's a good example of what you're talking about, because we're Talmadge Woods at the same time as Galleria. They both have basically the same operating budget for the year, but one has twice as many people. So the larger the district, you take advantage of the tax base.

P.O. LINDSAY:

Okay. But how do we get the larger district? We incorporate more into the districts. And we're not doing it here. We're chasing them away. And I just can't buy that our costs is double an operator. And in terms of safety, I mean, OSHA applied not only to public employees, it applies to private employees too. I mean, the double factor, I just buy it. I don't think -- you know, I know that our County employees are paid a decent wage, but I can't buy it's double.

COMMISSIONER ANDERSON:

Well, I think again, what Ben is trying to say is the plant itself has a number of problems. The plant isn't being -- I can't say that -- from my understanding and what I've been told, the plant is not running as well as it could be. We step in, we increase time, we increase services, we're -- you know, the private developer is going to try to save money where he can. We're doing the job to make the plant work the way it's supposed to to the most efficient way that it can. That is going to increase the cost.

The fact that -- and I'm basically just restating what Ben just said -- was based on the population of the district that -- you know, that reduces the costs. Obviously if this one had a significant larger area you or, you know, community, the cost would be that much less. That's part of our -- not our desire -- but our agreement to or the fact that we feel that it would be the best at this point to try to dissolve the district and increase the number of users, increase the size of the plant, you know, make it more -- or less cost to everybody involved by making the district bigger.

CHAIRMAN SCHNEIDERMAN:

Legislator Stern.

LEG. STERN:

Thank you, Mr. Chairman. Assuming that we get to the appropriate number, and assuming that that is a number that is acceptable to the community, your memorandum suggests that if the number is high enough that the State Comptroller's Office is going to have a problem approving ultimately whatever this Legislature may approve. Can you speak to that and what problems there might be and a future step, you know, in how that might work?

COMMISSIONER ANDERSON:

Once we have an agreed number, we have to go before the State Comptroller. The State Comptroller could very well disagree and not law the fee based on the increase that is being incurred at this -- you know, at the rate that we're requiring.

MR. WRIGHT:

Every year, the State Comptroller puts a cap on either an increase per typical home or an increase for the total cost of a project. This particular year it's \$16 per typical home, but if you look at an overall project, it's \$345 per home. Our recommendation is that a thousand-seventy is \$600 above what we originally proposed, which is above what they're paying now. So if it's twice what the State Comptroller has as a cap, it's unlikely that they would go along and approve that. But they basically have final word. Once everything is completed locally, then it goes to the Comptroller to indicate whether or not the service area can bear the burden of that cost.

LEG. STERN:

Is that a firm number? I mean, right now we're talking about a number that might be double what that. If it's only half of that, is there some discretion there?

MR. WRIGHT:

You mean your \$1070 per unit, is that the number that you mean?

LEG. STERN:

If that number is brought down somewhat but still in excess of the 375 or whatever is set by the State Comptroller's Office, is there some discretion there?

MR. WRIGHT:

We looked at the numbers very closely, and we felt that the total budget, which amount to a \$1070 a unit, is the right number.

LEG. STERN:

I understand that. But assuming that it was even \$800, that number is still significantly higher than what the State Comptroller's Office has set as a cap.

MR. WRIGHT:

Yes, 345 is what they have for this year. And there's no telling what they would say. I mean, if everybody were in favor of it, I suppose they would consider that, but that's -- you know, they look at the overall taxes, not just the sewer rate. They need a lot of financial information from the service area.

LEG. STERN:

But they do have discretion there?

MR. WRIGHT:

Yes.

CHAIRMAN SCHNEIDERMAN:

Legislator Caracappa.

LEG. CARACAPPA:

For the need to get the tax base, you need the hook-ups and you need to expand. From what I understand, conceptual approval has been given to the sewer district for future expansion; is that true, Ben?

MR. WRIGHT:

Yes. There's two restaurants that could be connected once the sewer district is formed. There's also talk about the Water Mill, which is, you know, to south of the site, expanding.

LEG. CARACAPPA:

But with all the groundwater problems that they're facing over there in that area, is that actually feasible to do, the expansion? And if not, then that pretty much makes the whole hooking up the extra people and creating the larger tax base basically moot.

MR. WRIGHT:

Well, there was some -- I know Legislator Kennedy had raised this issue a number of times. There's a basin that's right adjacent to the treatment plant that has water it that's about 15 feet below ground. Also, the on-site systems, the recharge facilities, a portion of it hasn't been used yet, because the flows are not up to where the design flow is. So I'm not 100% convinced that if it were expanded that the groundwaters would be an issue. I mean, I think what's happened in the community was basically up hill from the treatment plant, because everything comes by gravity to this low point. And what happened in some of the dwellings was really up hill, maybe some different soil conditions and something to do with a stormwater basin. But, you know, I'm not convinced that increasing the size of the plant would have any impact on the groundwater levels right around the plant site and with the -- you know, the adjacent community.

LEG. CARACAPPA:

So its the department's feeling that expansion is possible and you are moving forward in that direction?

MR. WRIGHT:

Yes. Yes.

LEG. CARACAPPA:

What's the overall capacity now and what are you looking to go -- -

MR. WRIGHT:

One hundred and seventy-eight thousand.

LEG. CARACAPPA:

Seventy-eight thousand now.

MR. WRIGHT:

One hundred and seventy-eight thousand.

LEG. CARACAPPA:

One hundred and seventy-eight thousand. And you're going to get to --

MR. WRIGHT:

We're increasing it by a half. We'll go up to 270.

LEG. CARACAPPA:

All right.

CHAIRMAN SCHNEIDERMAN:

Can I ask you on that first, if they do expand and take in -- what is it -- a restaurant or whatever you said, retail, that could effectively lower the cost for those inside the district, would it not?

MR. WRIGHT:

Well, it would increase the number of services areas, residents and the commercial area. So the tax base would be larger. And, you know, typically the --

CHAIRMAN SCHNEIDERMAN:

The operational costs would be largely the same, right?

MR. WRIGHT:

Yeah. The same labor. And that's the biggest element. The same labor would, you know, probably take care of a plant that size.

CHAIRMAN SCHNEIDERMAN:

So even if they came in at that thousand dollar rate, it could potentially go down if it's expanded?

MR. WRIGHT:

It could.

CHAIRMAN SCHNEIDERMAN:

Not the plant expanded, but the effluent, the intake, is expanded.

MR. WRIGHT:

Yes.

CHAIRMAN SCHNEIDERMAN:

I'm trying to get a better handle on this fee. If this fee, this \$1000 fee, turns out -- you know, you believe it's the right fee, and let's say the Comptroller accepts this fee, but then you operate the plant for a year or two years or three years, and it turns out that you can operate it for far less, suddenly there's this reserve that's building, what happens? Does that go back to the taxpayers? Is it used -- do you start to lower the rate?

MS. CONWAY:

That goes back to the homeowners of that sewer district.

CHAIRMAN SCHNEIDERMAN:

Right. So if it turns out -- if they're right and it's not a fair fee, they'll get that money back.

MS. CONWAY:

Right.

CHAIRMAN SCHNEIDERMAN:

Right. And the fee itself may not actually be the fee because the Comptroller has the last say. Is that part of your concern is that the Comptroller may set a lower fee than this thousand and the County would end up operating at a loss?

MR. WRIGHT:

I don't think we were concerned about the Comptroller. We were concerned that this is what we think is the right number.

CHAIRMAN SCHNEIDERMAN:

Right. But it sounds -- maybe I can hear again from the homeowners association. It seems like they're saying, "Look, whatever is a fair fee, we're willing to pay that fair fee," is that correct?

LEG. KENNEDY:

Yeah.

CHAIRMAN SCHNEIDERMAN:

Then I'm not sure what the big issue here is.

MR. SCHNEIDER:

Can I just comment on one -- I guess a couple of the points that were made. We are hearing that they think the cost may be higher because of the way the plant is running presently now. My understanding of the County taking over sewage treatments -- and someone could correct me if I'm wrong -- is that they don't take them over until whatever repairs have to be made are actually made. And when they take over the plant, they're fully functional, properly working plants, that's number one. And I'd love to hear a response to that, because I think that's something that they're saying is serving as a basis for some of these costs.

The second thing is we're talking about double the cost. We're not talking about double the cost, we're talking about quadruple the cost of what they're paying now, quadruple the cost of what they're operating the plant at right now. And if the plant wasn't being operated right now properly, there would be violations, I would assume, from DPW that would have been hit on the plant. So, I mean, I'm not -- I'm a little confused as to what we're hearing here. And I don't know why we're not all working to try to do the best thing for the residents and put forth a rate that's reasonable.

Lastly, we keep talking about, well, if they operate for three years at this number and they operate -- it really costs less to operate will it go back. It will never go back, because half of the costs are going to be fictitious costs. How are we ever going to know what the real cost is to operate, because they're not basing the budget on their real operational costs? They're saying 1.5 or 2.12 or maybe it will be three or maybe it will be a half a percentage of their soft costs for all of the districts are being passed off to this property. That's the problem the communities have is that they're charging their budget, their thousand dollar and change number includes over \$300,000 worth of soft costs.

CHAIRMAN SCHNEIDERMAN:

But you agree that there are soft costs. That you have an administration that's not going to be located at this facility, this County Department of Public Works. They have expenses, and there's got to be some proportional element to this facility that some years it's going to be more, some years it's going to be less. How do you determine -- what's a fair way to determine it than deciding based on capacity what would be the right percentage?

MR. SCHNEIDER:

I'll tell you right now, I think that Legislator Lindsay hit the nail on the head. We've been operating -- they've been operating this plant for five, six, seven years already. It's operating. There are actual costs. The soft costs are more than the actual costs in this budget, more than the actual cost to operate the plant. How reasonable is that? The soft costs alone -- you have \$316,000. The actual cost 109, 35,000, 84,000 and 44,000.

CHAIRMAN SCHNEIDERMAN:

Ben, any comment --

MR. SCHNEIDER:

Come on.

CHAIRMAN SCHNEIDERMAN:

-- on why the soft costs are so high?

MS. CONWAY:

I can explain what the soft costs are.

CHAIRMAN SCHNEIDERMAN:

Yeah. Why don't you take us through what the soft costs are.

MS. CONWAY:

They're \$73,000 of administrative labor, sanitation administration, people who, like Ben, who don't -- who aren't out in the field, their time -- they don't track their time, how many hours a day he spends at any one of the individual sewer districts. They don't track their time like that. What we do is we take the people who are in the field, every day they have to account for where they spent their time. We take all that data, we compile it, we come up with the actual cost that the County has occurred for their salaries, and based upon the percentage of time that has been spent at any individual sewer district, that's the percentage of their time that would be allocated to that particular sewer district.

CHAIRMAN SCHNEIDERMAN:

So that's in addition to the two people who are full time at the plant, that 72,000 in administrative salary?

MS. CONWAY:

For everybody who's operating out of the offices who we might not see.

MR. WRIGHT:

So just to add to that, I'll use myself as example. I don't fill a timesheet out, but I know generally spend about 40% of my time associated with Bergen Point and the other 60% for the other districts. So that 60% is then allocated by the labor of the actual individuals that are at those 21 other treatment plants. And the same thing happens with the secretarial staff that, you know, orders materials for those treatment plants and does the paper work and, you know, takes complaints, etcetera.

CHAIRMAN SCHNEIDERMAN:

What are the other soft costs here?

MS. CONWAY:

Well, all the fringe benefits; health insurance --

CHAIRMAN SCHNEIDERMAN:

Now, that applies to the administrative and also the direct labor?

MS. CONWAY:

And the direct labor. Pension costs, health costs --

CHAIRMAN SCHNEIDERMAN:

And then administrative operating expenses, what are those type of things?

MS. CONWAY:

Fund 261 has its own operating expenses. A lot of the costs that -- the men that are in the field that are going out every day in their trucks, the supplies that they have on their trucks are ordered through Fund 261.

CHAIRMAN SCHNEIDERMAN:

So that's different than the supplies that are --

MS. CONWAY:

That are ordered directly and are delivered to the plant and ordered specifically for the plant, then there's the stuff that the guys use out; water sampling bottles, the lab analysis costs, all of those costs are paid out of Fund 261.

CHAIRMAN SCHNEIDERMAN:

And the interfund transfers, you've got another 142,000.

MS. CONWAY:

Interfund transfer is the fleet.

CHAIRMAN SCHNEIDERMAN:

Fleet service, self insurance, heavy equipment. I guess that's different heavy equipment than above. I mean, this is to me where this is stuck. Okay. We have the homeowners saying, "Look, please take this thing over. We'll pay whatever it's going to cost as long as you're being fair and reasonable." And there's some question whether you're being fair and reasonable. And so it's kind of stuck in this gray area.

I personally would like to see this move forward. I'd like the County to take this over and make sure that the County's costs are fully covered. They are willing to do that. But we're kind of stuck in this area where it just intuitively doesn't seem to make sense that the County would cost not twice but four times more than a private operator would cost to run it.

MR. SCHNEIDER:

Also, it's interesting that we're hearing that 60% of Mr. Wright's time is spent in one facility and 40% in the others. Are you saying that you don't visit non County-owned facilities either ever? I mean, is all your time being passed to these facilities and none of it being paid for by the general County taxpayer dollars? That's why -- when they put these numbers in here, I think there's a lot of it that is fictitious. I mean, they may be real numbers for what it's costing the County for these people's staff and salaries, but it doesn't mean that all of that gets bumped over. How could it cost more than -- more in soft costs than actual costs?

CHAIRMAN SCHNEIDERMAN:

Unfortunately, we at this level in this committee are not going to arrive at what the fair costs are. We have our experts here telling us what the costs are. You are disputing it. You know, we could potentially move forward with this thousand dollar figure and you seek your other remedies to try to get that adjusted or we can not move forward. I think that's where we're at. I don't hear any deviation --

MR. SCHNEIDER:

I think there's another option, which is to move forward at the original number that they proposed, which is actual cost.

CHAIRMAN SCHNEIDERMAN:

The Presiding Officer asked to be heard. Legislator Lindsay.

P.O. LINDSAY:

Yeah. I'm troubled with the administrative overhead column. We have 21 sewer districts, and the one big one is Southwest. So if you take that out of mix, we have 20. And how many people work in the Sewer Agency? How many work --

MR. WRIGHT:

Bergen Point has about 130, and the other districts have about 130.

P.O. LINDSAY:

Huh?

MR. WRIGHT:

There's a total of 260 roughly. And 130 of them work in the other districts.

P.O. LINDSAY:

I'm talking about administrative now, Ben, I'm not talking operational. That's what that bottom column addresses, the \$300,000 that we're chalking off to administrative costs. I mean, do we have 12 people working administratively, 20 people, ten people?

MS. CONWAY:

I'd say maybe 35 to 40 probably are included in that type of allocation with various percentage of their time --

P.O. LINDSAY:

Because what we're talking here is if you multiply out that \$316,000 times 20, you're talking about a budget of \$6 million. Do we have \$6 million worth of employees working with the administration of the Sewer Agency?

MS. CONWAY:

All of salaries for all of the employees who operate out of the sewers is all paid out of Fund 261, and that's about \$9 million.

P.O. LINDSAY:

Okay. But again, you're mixing in the operational people. I'm talking about just -- it seems the debate is over this administrative line that's more than the operational line. And, you know, if our administration is that top heavy, we've got to take another look at it, because we'll never, we'll never expand sewers in Suffolk County at this rate. Never.

CHAIRMAN SCHNEIDERMAN:

Legislator Eddington.

LEG. EDDINGTON:

Yes. A couple of things. I mean, obviously, I'm for water quality, and we've been talking a great deal about open space, but it doesn't really mean much if we don't support the sewer systems that we have. Legislator Kennedy always does due diligence, and I'm always impressed with what he comes forward with.

And we were talking briefly about a possible discharge without recommendation, but I personally feel then we haven't done our job, because we're supposed to make a recommendation. And then I'm hearing 51% of the residents support it. And then I hear it's going to be four times the cost. So I'm having trouble getting this all of this in my mind. It just seems to me that there has to be another discussion. And maybe this is my social work background, but can't we get DPW with the homeowners association, and you guys talk and come back to us? Because now we have them saying something and you saying something. And I'm seeing two great arguments, but I'm not prepared to make a decision here. And I think that's our job of this committee, to make a recommendation to the other 18 members. So I'm suggesting that we table it, have you sit together face to face and then come back with some kind of a settlement, a reasonable settlement. Because I hear what Legislator Lindsay is saying, it's very frustrating.

LEG. KENNEDY:

Mr. Chair, I appreciate the committee taking up this amount of time, and I apologize for monopolizing so much time, but as my colleague -- and we're often called a pair of Jacks -- hits on

so well, there is dialog -- further dialog to be had here. And I have attempted to have it for the last nine months, and I might as well have talked to this table top. I got no further. And what puts us in peril now is the administration's decision to introduce a resolution to compel dissolution.

I still tried to work discussion, but when faced with a decision on the part of the administration to move forward and dissolve, I had no choice but to go ahead and seek to implement where we're at now. I didn't look to create this rock and hard place. It came from the other side. So I'd love the opportunity to have a meeting of the minds or to have a better understanding or to understand why there's triple soft to direct hard. But I'm now faced with a decision on the other side to go ahead and dissolve. That's the dilemma.

MR. SCHNEIDER:

We also had a meeting -- we attempted to have a meeting, and then we learned just before they showed up at the meeting that they were going to put forth to dissolve. When the meeting was supposed to be set up to have this dialog, this very dialog that you're talking about -- because the homeowners said, let's sit and meet -- and many of the people at this table were at that meeting. And when we got there, we said, Hey, let's start out this meeting on the right foot, because we're learning that you're about to put forth a resolution to dissolve this sewer district, but yet you were supposed to come here and talk to us, because after the informational hearing -- informational meeting, we agreed that there were issues that need to be discussed.

So we would love to discuss it. We're perfectly willing to discuss it, we're perfectly willing -- the residents are willing to pay the real cost. There's got to be some happy medium here. It seems to make sense, but we need cooperation. A, it shouldn't be with a gun to our head that someone is looking to dissolve the district. I think that resolution should be pulled off the table personally. That would be my recommendation. And then a meeting set up whereby certain representatives of the communities, the Board of Directors of the communities -- because that's what boards are for -- and Counsel could sit and meet and see if we could further -- we would welcome that opportunity. I think it's a great suggestion.

LEG. CARACAPPA:

Obviously, I see Mr. Zwirn coming up to the table. Is the administration willing to either postpone laying on the table or give a guarantee here to table it in the next couple of weeks so that discussion can be had?

MR. ZWIRN:

There can always be discussion. And I can't imagine this committee moving forward on a motion -- on a resolution to dissolve this sewer district while this is left unresolved. So I mean, this committee ultimately and the Legislature has the ultimate control. It's not as if the County Executive or DPW can work on a separate track and do something without the approval of the Legislature. So ultimately, it's going to come back here at any cost. So if you guys decide to table this, you certainly can table the next resolution until this thing is resolved to your satisfaction. You have the cards -- you hold the cards.

CHAIRMAN SCHNEIDERMAN:

Legislator Caracappa.

LEG. CARACAPPA:

Well, Mr. Zwirn's right. You know, if we feel the need to hold up both of them, we can. I'm just looking for a little good faith to be put on the record so that --

MR. ZWIRN:

I think there is good faith. I think the problems is that the numbers that DPW came up with are high numbers and that the residents in this community would like to have the County take it over, but there's certain level where they say, you know, it's too much for us to handle. Now, DPW thinks those numbers are correct and they can be justified. We may have to come back a second time,

very detailed, and go over these numbers again very carefully. Look, if we could do it for less money, if DPW could do it for less money, they would do it.

They think that you're not satisfied, the community is not satisfied with the numbers they've come up with aren't the real costs. So let's go back, go over the numbers again, do it in a public -- in a public setting so that people can see it so that nothing is done under the table or behind the scenes, and get the to bottom of it. Then everybody will know what the reasons are for it -- whichever track we ultimately move down, the reasons will be out there and can be public debated, and we'll all be dealing from the same information.

CHAIRMAN SCHNEIDERMAN:

Legislator Kennedy.

LEG. KENNEDY:

I will finish with one last comment, Mr. Chair. I appreciate Mr. Zwirn's representation and the fact that this committee does hold the authority regardless of whatever comes forward. That is truism. I also think, though, that this issue is an important issue, not just for Galleria -- and I'll point to what Legislator Lindsay our P.O. has said. I think we are on the edges of a policy that we are seeking to go ahead advance, and at the same time, we are hitting ourselves in the foot with a hammer with the pragmatic reality each time we attempt to create a sewer district by facing these inordinate costs that we are saddled with.

Either we get a policy shift to access Sewer Tax Stabilization or we get recognition that we can't take \$15 million and put it on small groups and go forward and have it be a reasonable cost. And finally, it is an issue for all 18 of us. So at the very least, if it moves from our committee here to the general body, we all get a chance to discuss it. I think Legislator Eddington was right, substantively it's important for this committee, but I think it's for all of us too.

I'd ask the committee again to at least consider discharge without recommendation.

MR. ZWIRN:

If I might, Mr. Chairman. And I pick up on what Legislator Kennedy said. I said I think it's also important to know what the impact would be if we start going to the Tax Stabilization Funds in this manner where we haven't in the past. And if that's going to be the new policy of the Legislature, which the Legislature is at liberty to, you know, entertain, but what will be financial impact down the road? That's something that I don't have an answer for. Maybe it won't be -- it will negligible, maybe it will be serious. But it's something that I think every Legislator who has sewer districts in their district would want to know the answer to, because it's going to have an impact on their taxpayers in those districts as well.

MR. WRIGHT:

Mr. Chairman, one last comment.

CHAIRMAN SCHNEIDERMAN:

Yes.

MR. WRIGHT:

Just for the record, I don't want the impression from the community's representative to be on the record alone that we weren't willing to spend a lot of time, which we did in meetings with Legislator Kennedy as well as the community a number of times, to make ourselves available and to give all the information we had. You know, so there was a cooperation there, we just don't have -- we aren't on the same page with respect to the costs.

CHAIRMAN SCHNEIDERMAN:

Here's where I am. And I understand the sponsor is asking for a discharge without recommendation, but I'm also hearing some confusion from the homeowners association. I'm not clear whether you guys are saying, all right, if it turns out to be 1070, we'll accept it, move forward,

if that's what it ends up being so be it. You've got other remedies after that point to try to argue that number. Or are you saying, you know what, no, let's buy some more time, let's have some more discussions, let's see if we can come up with a new number? Can you answer that?

MR. SCHNEIDER:

Sure. I think that there's a couple of avenues, though. And I think that -- first of all, if it's really 1070 and these are real costs relating to this district, the answer is the community would be happy to pay what the real costs are, not fictitious costs.

CHAIRMAN SCHNEIDERMAN:

So that's yes.

MR. SCHNEIDER:

But that's assuming that we're getting hit with -- we already know what they're saying the soft costs are.

CHAIRMAN SCHNEIDERMAN:

Let's say they're real. Let's say they are the real costs -- and I admit that --

MR. SCHNEIDER:

And they can quantify them.

CHAIRMAN SCHNEIDERMAN:

-- as Legislator Lindsay has said, we've got a real problem if those are the costs, because it's a discouragement of promoting sewage treatment which is -- you know, how can we have more development over our water table unless we're going to have sewage treatment?

MR. SCHNEIDER:

I agree with you, Mr. Chair. But then the secondary issue would be if -- let's assume that they can really justify that these are the actual costs for this plant, not ten others, then I would -- I would subscribe to what Legislator Kennedy has said and what I think I have heard from some of your -- the other Legislators, well, why not access the Sewer Assessment Stabilization Fund to reduce some of those costs, because I find that --

CHAIRMAN SCHNEIDERMAN:

That's something, you know, we can look at later.

MR. SCHNEIDER:

Well, no, because it would be -- it would go towards keeping that rate down initially. So it would be part and parcel --

CHAIRMAN SCHNEIDERMAN:

It has to be in tandem; is that correct?

MR. ZWIRN:

That was what I tried to raise.

CHAIRMAN SCHNEIDERMAN:

All right. Then we shouldn't move forward with this today.

MR. ZWIRN:

I'm just saying, that would raise -- I'm not saying that that's not something -- a road that you would want to go down, but I think at the very least we would want to have a financial impact statement, because tax stabilization for capital improvements in districts, and how fast will that disappear, how fast will the Tax Stabilization Fund -- how will it go? I don't know the answers to those questions now. BRO would have to do some work, our Budget Office would have to do some work. But it's

certainly worthy of a discussion because sewers are a good thing. The County Executive has been supportive of expanding the sewer districts, he's very vocal about it.

CHAIRMAN SCHNEIDERMAN:

If we discharge it without recommendation, as the sponsor suggested, then we have to have this argument with so many unanswered questions at the full Legislature and it's just waisting everybody's time. So I would try to send this to the Legislature if I knew that you guys were saying, okay, if it's 1070, fine, we'll live with it, but that's not really what I'm hearing. So to me, this bill isn't ready for the Legislature yet.

COMMISSIONER ANDERSON:

Again, I want to state that this is an estimated cost, okay? This is based on another plant, a similar plant. We may -- if we went and we created the district based on these fees, over a few years we would monitor the cost. If it's less, the cost would be -- and please correct me if I'm wrong -- the cost would be adjusted. It could be higher, at which time we would go for the stabilization, or it could be lower. You know, these are our best estimates at what this is going to cost the district. Again, this is a small district, and it's -- the fees are going to be spread over a very few number of people as compared to a larger district.

CHAIRMAN SCHNEIDERMAN:

I want to try to move on.

P.O. LINDSAY:

Just one last comment.

CHAIRMAN SCHNEIDERMAN:

Presiding Officer.

P.O. LINDSAY:

The problem is -- I don't care whether you're selling a candy bar or talking about a sewer district. When your administration cost is more than your operating cost, something is wrong, guys. Whether we're computing it or it's actual, something is wrong. Maybe it should be done on basis of the population instead of just taking that 20 sewer districts and dividing it up evenly, because you're never going to create sewer districts with that formula.

I mean, come on, guys. As business people, you can't have administrative costs more than the operating costs. I mean, administration costs should be, what, at most 20% of what your product costs, and even that's high. Contract agencies. We have this discussion all the time. We ask them, "What's your administrative cost?" And if it's over 20%, we go crazy. This is more than 100%. Something is wrong. That's what the frustration is here.

MR. SCHNEIDER:

I join in Legislator Lindsay's comments. It's absolutely the case. If we're going to have a meeting where they're just going to come and tell us that, well, this is how we came to these administrative costs and their position is going to be these soft costs go forward, then, I guess, what is the point? And maybe Legislator Kennedy correct to move forward in the way he's suggesting. On the other hand, if we're going to have a meeting and talk about it and say, you know what, maybe some of these administrative costs don't belong in here and we could get to a real rate of actual costs, we would subscribe to that. So maybe that helps with the confusion that you had from the position of the association.

P.O. LINDSAY:

My last comment is before we talk about tapping the Sewer Stabilization Funds to create sewer districts, I mean, you have legislation before you now to reduce the amount of Sewer Stabilization Funds dramatically for land preservation. You can't have it both ways, guys. We're going to have to do one or the other.

CHAIRMAN SCHNEIDERMAN:

You have a good point. All right. The motion before us is actually a motion to table. So if there's no further discussion, let's vote on the motion to table.

LEG. KENNEDY:

The last item I'll give you, Mr. Chair, and I'll make it very quick. I respect the decision of this committee, I appreciate the time the committee has taken to consider this, but I'm also going to ask that the administration, if it is their intention to come forward with dissolution, do this with the understanding that, A, we'll have an opportunity to meet to kind of -- to further discuss what's on here, but, B, that they be equally agreeable that dissolution really is -- well, just not the preferred course here. It is not listening to the desire of the constituents at all. I'll yield, Mr. Chair. Thank you.

CHAIRMAN SCHNEIDERMAN:

Legislator Eddington is also suggesting that this meeting occurs prior to our next meeting, otherwise there's nothing more to discuss. We'll just end up tabling it again. But there is a motion to table and a second. All in favor? Opposed?

LEG. CARACAPPA:

Opposed.

CHAIRMAN SCHNEIDERMAN:

Abstentions? Okay. Legislator Caracappa, opposed.

TABLED (VOTE: 4-1-0-0 - Opposed - Legis. Caracappa)

Legislator Montano has an excused absence for the rest of the committee.

1575. Establishing a written notice policy for Suffolk County Accessible Transportation Services (SCHNEIDERMAN).

CHAIRMAN SCHNEIDERMAN:

Public hearing -- doesn't need one. Okay. I'll make a motion to approve.

MR. ZWIRN:

Bruce Blower is here, Commissioner of the Handicapped, to speak to this.

CHAIRMAN SCHNEIDERMAN:

Let's get it in front of us first. I made a motion to approve, is there a second? All right. I withdraw the motion to approve.

LEG. STERN:

Motion to table.

LEG. EDDINGTON:

Second.

CHAIRMAN SCHNEIDERMAN:

There's a motion to table and a second. On the motion, Mr. Blower.

(*DUE TO A TECHNICAL DIFFICULTY, CERTAIN TESTIMONY WAS INAUDIBLE*)

(*VERBATIM TESTIMONY CONTNUIUES*)

CHAIRMAN SCHNEIDERMAN:

There's been a motion to table and a second. All in favor? Opposed? **TABLED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted)**

1623. Adopting a Local Law to reduce the emission of pollutants from diesel-fueled motor vehicles operated by or on behalf of Suffolk County (COOPER).

LEG. STERN:

Motion to table.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Stern, seconded by Legislator Eddington. All in favor? Opposed?

TABLED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted).

1639. Amending the 2007 Capital Budget and Program and appropriating funds in connection with safety improvements on CR3, Wellwood Avenue in the Village of Lindenhurst, Town of Babylon (HORSLEY).

LEG. EDDINGTON:

Motion to approve.

LEG. STERN:

Second.

CHAIRMAN SCHNEIDERMAN:

Motion to approve and a second. On the motion, Legislator Caracappa.

LEG. CARACAPPA:

What's the offset -- I'm good.

CHAIRMAN SCHNEIDERMAN:

Commissioner, anything you want to add?

COMMISSIONER ANDERSON:

Best of my knowledge, Lindenhurst should be identified within the first Whereas, not Suffolk County Department of Public Works. And I don't know anything about the project, I cannot comment.

CHAIRMAN SCHNEIDERMAN:

Motion to approve and a second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted).**

1648. Approving maps and authorizing the acquisition of lands pursuant to the New York State eminent Domain Procedure Law, in connection with the acquisition of properties for the reconstruction of CR 16, Portion Road, from the vicinity of Ronkonkoma Avenue to the vicinity of CR 97, Nicolls Road, Town of Brookhaven, Suffolk County, NY (COUNTY EXEC).

LEG. CARACAPPA:

Motion to approve.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Caracappa.

LEG. EDDINGTON:

I'll second.

CHAIRMAN SCHNEIDERMAN:

Second by Legislator Eddington. Commissioner, any additional information?

COMMISSIONER ANDERSON:

No.

CHAIRMAN SCHNEIDERMAN:

Any discussion? All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted).**

1657. Amending the 2007 Capital Budget and Program and appropriating funds in connection with the County share for participation in the reconstruction of CR 80, Montauk Highway, Shirley/Mastic, Town of Brookhaven (COUNTY EXEC).

CHAIRMAN SCHNEIDERMAN:

Is there motion?

LEG. EDDINGTON:

Motion to approve.

LEG. STERN:

Second.

CHAIRMAN SCHNEIDERMAN:

Motion by Legislator Eddington, seconded by Legislator Stern. Legislator Caracappa.

LEG. CARACAPPA:

Offset?

MR. NOLAN:

No offset, it's not amending, just appropriating.

CHAIRMAN SCHNEIDERMAN:

Any comment, Commissioner.

COMMISSIONER ANDERSON:

No.

CHAIRMAN SCHNEIDERMAN:

All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted).**

1659. Directing a study on the feasibility of the use of propane to fuel the County fleet (ROMAINE).

Is there a motion?

LEG. STERN:

Motion to table.

LEG. EDDINGTON:

Second.

CHAIRMAN SCHNEIDERMAN:

Motion to table by Legislator Stern, seconded by Legislator Eddington any comments?

COMMISSIONER ANDERSON:

Yeah. Okay. This resolution called for the department to conduct a feasibility study. While I

acknowledge the professional capabilities of my staff, don't have the expertise to conduct such a study. We would require a consultant. And the resolution doesn't contain any funding for this type of expenditure. We'd like that to be revised to -- you know, we need the funding to actually provide report of any substance. And also, the amount of days is insufficient. You know, it requires that a report be submitted within 90 days, and that just wouldn't happen.

CHAIRMAN SCHNEIDERMAN:

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

LEG. CARACAPPA:

Opposed.

CHAIRMAN SCHNEIDERMAN:

Legislator Caracappa opposed to tabling. **TABLED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted).**

1661. Authorizing public hearing to rescind Resolution No. 1039-2006, for North Ferry Co., Inc. rate schedule (ROMAINE).

I'll make a motion.

LEG. CARACAPPA:

Second.

CHAIRMAN SCHNEIDERMAN:

Seconded by Legislator Caracappa. It's to authorize a public hearing.

LEG. STERN:

Motion to table.

LEG. EDDINGTON:

Second.

CHAIRMAN SCHNEIDERMAN:

There's a motion to table and there's a second. Legislator Stern making a motion to table, Legislator Eddington seconding. And I believe a representative from the County Attorney's Office wishes to speak on this. Gail.

MS. LOLIS:

Thank you. Well, as to 1661 and to 1662, we just wanted to state on the record that the Legislature is not authorized under these circumstances to alter the ferry rates. Under the Highway Law as well as even the County Law, it has to be done on application of the ferry owner. The only time the Legislature can do it on its own motion is if there is a claim of noncompliance by the ferry company of any, you know, any applicable laws. And that's not part of the -- any of these resolutions.

CHAIRMAN SCHNEIDERMAN:

Counsel.

MR. NOLAN:

I just want to state that the County Attorney's Office communicated this to me. I do concur. I don't believe the County has ability to do this -- the County Legislature has the ability to do this.

CHAIRMAN SCHNEIDERMAN:

Legislator Caracappa.

LEG. CARACAPPA:

I agree with that, but as it relates to at least the public hearing part of it, that too?

MR. NOLAN:

Well, the underlying action of rescinding and changing the rates we can't do legally. We don't have the legal basis to do that. So I don't think proceeding with a public hearing under the circumstances is probably advisable.

LEG. CARACAPPA:

Has the Chairman spoke to the sponsor? Are they contemplating doing it through a petition possibly? Have you had that kind of conversation --

CHAIRMAN SCHNEIDERMAN:

They are exploring another way to do this.

LEG. CARACAPPA:

That's why I bring up the need to table the public hearing. If they can go forward with the public hearing because they plan on doing it in a way that's feasible and that this Legislature can properly do, then why hold back the public hearing?

CHAIRMAN SCHNEIDERMAN:

You know, unfortunately we accepted rates that had some unintended effects in terms of discouraging people from carpooling and pedestrian traffic. You know, it looks like we probably shouldn't have approved the rates that we did. Now, how do we go back and revisit it until they come in for another petition? It's very hard.

I know that there are some discussions at the State level of having this ferry company lower the walk-on fee, passenger fee in exchange for some tax relief of some sort on equipment that they're purchasing. I don't know if that will happen. That's a State issue. So, you know, there may be other approaches to getting some relieve for the people who are frequently using this ferry. But I have not spoken directly with the sponsor to see -- in regard to this information that we have no authority to -- you know, I hate to make people come in for a public hearing on a bill that we can't approve.

LEG. CARACAPPA:

Understood. I'll clarify it for myself. Like I said, I do concur with both Counsel's opinion on it. The public hearing that is asking to be held would be strictly a public hearing on the nonpetition route, is that the case?

MR. NOLAN:

Right. The public hearing is something we have to do in order to act. We can't act until we have a public hearing.

LEG. CARACAPPA:

Well, that's with the -- whether it's going the way that Legislator Romaine, which is the illegal route, so to speak, or through a petition -- a petition route, which is the legal route to go. Can you have -- there's one public hearing -- the point I'm trying to make Counsel is can you have this one public hearing to address both ways?

MR. NOLAN:

No. The public hearing is for the way we would do it, the County Legislature, on our own motion.

LEG. CARACAPPA:

Very good. Then it's moot.

CHAIRMAN SCHNEIDERMAN:

All right. There's a motion to table and a second. I'll withdraw my motion to approve. The tabling

motion comes first anyway. So all in favor? Opposed? Abstentions? I'm going to abstain on it, but it is **TABLED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted)**.

1662. To rescind Resolution No. 1039-2006, authorization of alteration of rates for North Ferry Co., Inc. (ROMAINE).

Same motion, same second, same vote on 1662. **TABLED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted)**.

PM-10. Procedural motion to retain a consultant for the purpose of reducing pollution, traffic congestion and financial impact of current solid waste disposal practices in Suffolk County (PRESIDING OFFICER).

I will make a motion to approve. Do I get a second?

LEG. EDDINGTON:

Second.

CHAIRMAN SCHNEIDERMAN:

There's a second. Thank you, Legislator Eddington. On the motion, all in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-1 - Not present - Legis Montano; Presiding Officer Lindsay voted on all resolutions)**.

All right. That concludes the agenda. Thank you.