

PUBLIC WORKS & TRANSPORTATION COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

A regular meeting of the Public Works and 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, January 29, 2008.

MEMBERS PRESENT:

Leg. Brian Beedenbender, Chairman
Leg. Steven H. Stern, Vice-Chairman
Leg. Wayne R. Horsley
Leg. John M. Kennedy, Jr.
Leg. Ricardo Montano
Leg. Daniel P. Losquadro
Leg. Edward P. Romaine

ALSO IN ATTENDANCE:

Presiding Officer William J. Lindsay
George Nolan, Counsel to the Legislature
Ben Zwirn, Deputy County Executive
Gil Anderson, Commissioner of Public Works
Ben Wright, Department of Public Works
Rosalind Gazes, Budget Review Office
Robert Doering, Budget Review Office
Deborah Harris, Aide to Leg. Stern
Paul Perillie, Aide to Majority Caucus
And all other interested parties

MINUTES TAKEN BY:

Diana Kraus, Court Stenographer

(THE MEETING COMMENCED AT 2:07 PM)

CHAIRMAN BEEDENBENDER:

Could all the Legislators report to the horseshoe, please. I will call this meeting of the Public Works Committee to order and we'll start with the Pledge led by Legislator Stern.

SALUTATION

All right. Before we start I just wanted to -- before we start this year of committee meetings for the Department of Public Works -- well, for the Public Works Committee, I just wanted to talk about what I thought should be our focus in the coming year. And with economic uncertainty that we have and all the projects that we have in the pipeline and the debt associated with them, I think really a good focus for us this year would be to talk about the projects that are in the pipeline, the things that we already have committed to and are working on with a particular focus on traffic issues because that's not a problem that's specific to any one district. It's specific to all districts; whether it's County Road 58 in Legislator Romaine's district, County Road 67 in Legislator Montano or Legislator Kennedy's district, the access road to the Tanger Mall in Legislator Stern's district or -- I think that's everybody -- or the County Road 83, 97 and 16 projects in my district.

So, there's also a couple of very big capital projects that are ongoing that everybody knows about. The Grid project at the Southwest Sewer District in Legislator Horsley's district and the jail project as well as the Fourth Precinct, which is going to be a LEEDS project -- so the first LEED project the County does.

So what I'd like this Committee to do this year is really focus and make sure we can keep all the projects in the pipeline on time and on budget rather than focus on expanding our capital program to great lengths, but really focus on the things we're doing now to make sure all the things we committed to become the things that actually occur.

So with that, I don't have any cards. Are there any cards? So if there are no cards we'll go right to the agenda.

INTRODUCTORY RESOLUTIONS

IR 1008, Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 7 Medford with Enecon-Silveri parcel (BR-0880.1) (County Executive Levy) Do I have a motion?

LEG. STERN:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Do I have a second? Do I have a second?

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Stern, seconded by Legislator Horsley. All in favor? Opposed? Abstentions?

(IR 1008 approved. Vote: 5-0-0-2. Not Present: Legislators Losquadro and Kennedy)

IR 1010, A resolution calling for a public hearing for the purpose of considering the dissolution of the proposed Sewer District No. 4- Smithtown Galleria. (County Executive Levy) Do I have a motion?

LEG. STERN:

Motion to table.

CHAIRMAN BEEDENBENDER:

Motion to table. Do I have a second?

LEG. MONTANO:

I'll second it.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Montano. All in favor? Opposed? Abstentions?

(IR 1010 Tabled. Vote: 5-0-0-2. Not Present: Legislators Losquadro and Kennedy)

IR 1015, Permitting the Center Moriches Fire District to purchase fuel from Suffolk County. (County Executive Levy)

LEG. ROMAINE:

Motion.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Romaine.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern.

P.O. LINDSAY:

Before you take the vote, I have a question.

CHAIRMAN BEEDENBENDER:

On the motion, Presiding Officer Lindsay.

P.O. LINDSAY

It's really a question for the Commissioner. How many departments do we do this with? Do you know? Okay. I don't think your mike's on, Gil.

COMMISSIONER ANDERSON:

The current authorized users are -- you have Suffolk Cooperative Library System, the Cornell Cooperative Extension, Town of Brookhaven, Village of Westhampton Beach and Westhampton Beach Fire Department, so that's five.

P.O. LINDSAY:

How do we determine -- you know, how did we determine that we want them included? I think there's this motion -- this bill and the next one. How do we determine which departments or, I mean, can we accommodate additional departments?

COMMISSIONER ANDERSON:

Yeah. This is just -- it's basically on the request received, as long as their not-for-profit, you know.

P.O. LINDSAY:

I mean, is there something in common with those two departments? Do we have a pumping station near those two departments by chance?

COMMISSIONER ANDERSON:

Yes. Yeah, we do.

P.O. LINDSAY:

Okay.

COMMISSIONER ANDERSON:

And this, I mean -- and by allowing this, obviously they make their own arrangements with the folks who provide the fuel and the fuel dispensing vendor. And they pay their respective share of the costs, specifically where we're -- you know, involving retrofitting of their own vehicles to conform into the County's fuel management and preventative maintenance inventory control system.

P.O. LINDSAY:

So in other words, they have devices in their gas tanks similar to any other County fleet?

COMMISSIONER ANDERSON:

Yes, right.

P.O. LINDSAY:

And when the gas is dispensed it would automatically go to their account, is that it?

COMMISSIONER ANDERSON:

Yes; and then they would pay that fee.

P.O. LINDSAY:

Okay. Just inquisitive about it. Thank you.

CHAIRMAN BEEDENBENDER:

All right, I have a list. Legislator Montano.

LEG. MONTANO:

Yes, Commissioner, how are you there? Sorry, Commissioner, how are you there?

COMMISSIONER ANDERSON:

Good, thank you.

LEG. MONTANO:

This particular type arrangement is available to all of the fire districts equipment in the County?

COMMISSIONER ANDERSON:

I believe so.

LEG. MONTANO:

And does that also apply to like the -- let's say the Central Islip-Hauppauge Ambulance? Would they be permitted to opt into this type of program?

COMMISSIONER ANDERSON:

It certainly appears that way.

LEG. MONTANO:

Okay.

CHAIRMAN BEEDENBENDER:

Legislator Horsley.

LEG. MONTANO:

Thank you.

LEG. HORSLEY:

Commissioner, do you view this project or the two departments as a pilot? Is this something that you're anticipating is going to be growing into a shared service proposal? Is that what the thinking behind this is in the department? What your comments?

COMMISSIONER ANDERSON:

It certainly affords, you know, districts similar to this with an ability to get a reduced, you know, price on fuel. It's similar to when we would go out to bid for equipment where we would make that available to other municipalities if we go out to bid for a payloader; any municipality can piggyback on our bid and allows them not only the ability to get a reduced price but also to expedite their ability to purchase equipment.

LEG. HORSLEY:

So you're looking at this as a -- the start of a project that may actually at some point become a much larger project as far as shared services between not only fire departments, municipalities, other governmental areas?

COMMISSIONER ANDERSON:

Certainly wherever we can share services with any, you know, similar municipality or agency such as that, you know, we would love to do that.

LEG. HORSLEY:

Do you see that if other municipalities, if other fire departments and other governmental entities start buying from the County, then we would be buying in larger quantity and would actually reduce our costs?

COMMISSIONER ANDERSON:

Well, this is really -- enables them to make their own arrangement with the fuel vendor. I don't know that it would -- there would be any cost savings to the County, you know, through volume or anything like that. But I don't really know.

LEG. HORSLEY:

Is that a possibility?

COMMISSIONER ANDERSON:

If -- depending on how the contracts range, yeah, certainly when we -- if we negotiate a contract, that's something we could discuss.

LEG. HORSLEY:

It they anticipate that the County is going to be buying for x,y and z across the County, it would seem to me that that would -- you're looking at larger volumes then and that that possibly could be a matter of cost reductions at that point.

COMMISSIONER ANDERSON:

I think certainly if you could go in there with a certain volume that you could provide them with not only ours but everybody else's at the beginning that would certainly allow them to bring their costs down.

LEG. HORSLEY:

Is that a County bid or is that -- we don't go off a state contract on gas, do we?

COMMISSIONER ANDERSON:

I believe it's a County bid.

LEG. HORSLEY:

It's a County bid. Thank you.

CHAIRMAN BEEDENBENDER:

All right. Just a few questions, is this only in emergency situations? Or is this just for daily, I guess, the pumps are close to the fire districts. Is this for their routine use because I know in the past they were done for emergency basis, so is this just a routine use?

COMMISSIONER ANDERSON:

I'm going to defer to Joe on this. Oh, okay, this -- it's right in the first paragraph, the legislation is to purchase fuel on an emergency basis.

CHAIRMAN BEEDENBENDER:

Okay. All right. So if we were talking about the sort of thing that's been passed around the horseshoe, that would be a departure, if we were going to do it as a routine thing for shared services. So this is just an emergency basis, not a routine fuel.

COMMISSIONER ANDERSON:

Yes, sir.

CHAIRMAN BEEDENBENDER:

Okay. Legislator Losquadro.

LEG. LOSQUADRO:

Oh, okay. Well, I guess that would lend itself to what constitutes an emergency, but I was just going to say this is very similar to us piggybacking off state contracts for the purchase of vehicles.

COMMISSIONER ANDERSON:

Right, right.

LEG. LOSQUADRO:

It's not really breaking any sort of new ground here. But, my first question was are we passing along the same cost that we pay to the department? We're certainly not marking up the fuel price, are we?

COMMISSIONER ANDERSON:

No. There is a ten percent administrative fee that they would have to pay, but that's, you know, standard.

LEG. LOSQUADRO:

Okay. And what would constitute emergency service that you just laid out?

MR. ZWIRN:

If I might interject, I think if the fire district called and said they had an emergency situation, then that would probably be enough to let them do it. What we're doing in the County Executive level is we're looking to see if we can expand this as part of the shared services initiative to see if Public Works has the capacity to expand it.

LEG. LOSQUADRO:

Mr. Zwirn, just one second before you finish that thought. No, I just want to say that that was just sort of circular. I apologize, it's sort of pretzel logic. I asked what would constitute an emergency and you said if they called and said they had an emergency, that would be enough. So it --

MR. ZWIRN:

Right. We're not going to go out there - we're not going to go out there and --

LEG. LOSQUADRO:

Well, what sort of --

MR. ZWIRN:

-- question the fire district. We're not going to question the fire district. They have -- they said they have an emergency situation, it could be from things that we can't even anticipate. So to say what constitutes an emergency -- say they don't have fuel for their trucks, that would constitute perhaps an emergency.

LEG. LOSQUADRO:

Thank you. It still doesn't really answer the question. I was looking -- just an example, a for instance. You know, a natural disaster, some sort of for instance, I shouldn't have to answer my own question.

MR. ZWIRN:

I thought I answered it.

LEG. LOSQUADRO:

No, as a matter of fact you did not.

MR. ZWIRN:

I mean, if the fire department calls and says that they have an emergency situation, we're not going to send out a team to investigate what constitutes an emergency. We're going to try to work with the fire districts to try to help them as we would.

CHAIRMAN BEEDENBENDER:

Are there any other further statements on the motion? All right. We had a -- do we have a motion and second? All right. All in favor? Opposed? Abstentions? **(IR 1015 approved. Vote: 6-0-0-1. Not Present: Legislator Kennedy)**

LEG. ROMAINE:

Would the Clerk please list me as a cosponsor on IR 1015.

CHAIRMAN BEEDENBENDER:

IR 1016, Permitting the Yaphank Fire District to purchase fuel from the County. (County Executive Levy) Do I have a motion?

LEG. STERN:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Stern. Do I have a second?

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Second by Legislator Horsley. On the motion? Okay. All in favor? Opposed? Abstentions? **(IR**

1016 approved. Vote: 6-0-0-1. Not Present: Legislator Kennedy)

IR 1023, Directing the Suffolk County Sewer Agency and Department of Public Works to finalize the creation of the Sewer District No. 4 Smithtown Galleria. (Kennedy)

LEG. STERN:

Motion to table.

CHAIRMAN BEEDENBENDER:

Motion to table by Legislator Stern. Do I have a second?

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Second by Legislator Horsley. On the motion, Legislator Losquadro.

LEG. LOSQUADRO:

Explanation please. I know this has been ongoing for a while. Perhaps Commissioner Anderson could comment as to --

CHAIRMAN BEEDENBENDER:

I can comment.

LEG. LOSQUADRO:

-- what -- or the Chairman could comment as to what the status of this project is.

CHAIRMAN BEEDENBENDER:

I got a letter in my office today from the attorneys for the project. And there's been a meeting with Public Works. And there was an agreement to table both this and the County Executive's resolution for one cycle while they continue to meet.

P.O. LINDSAY:

I could add to that.

CHAIRMAN BEEDENBENDER:

Presiding Officer Lindsay.

P.O. LINDSAY:

Yeah, Legislator Kennedy asked me to be at the meeting. I was at the meeting with all the interested parties from the homeowner association that was looking to create a district to the developer that has the existing private district there now. And the homeowners want this to come to some kind of conclusion. They want to have a vote on forming a sewer district even if it means that their rates are going to triple. And the people that want to expand the sewer district they don't -- that operate it now, want to incorporate some commercial properties into it so it was a great -- they both would be tabled and they would move forward to include the two commercial establishments into the district. And somewhere down the line they're going to have a vote of the people involved in this.

CHAIRMAN BEEDENBENDER:

And I believe the County Attorney's looking into whether or not you'd have to add a new resolution to do that and change all that, the rest of that information.

P.O. LINDSAY:

Yes, yes.

CHAIRMAN BEEDENBENDER:

Legislator Losquadro.

LEG. LOSQUADRO:

No, that's fine.

CHAIRMAN BEEDENBENDER:

Okay.

P.O. LINDSAY:

Everybody was satisfied at the end of the meeting. At least there's some direction of where this whole thing is going.

CHAIRMAN BEEDENBENDER:

All right. On the motion to table, all in favor? Opposed? Abstentions? **(IR 1023 Tabled. Vote: 6-0-0-1. Not Present: Legislator Kennedy)** All right.

IR 1028, Authorizing public hearing for alteration of rates for South Ferry, Inc. (Presiding Officer Lindsay) Do I have a motion?

LEG. ROMAINE:

Motion.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Romaine.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Second by Legislator Stern. On the motion? All right. All in favor? Opposed? Abstentions? **(IR 1028 approved. Vote: 6-0-0-1 Not Present: Legislator Kennedy)**

IR 1029, Authorizing alteration of rates for South Ferry, Inc. (Presiding Officer Lindsay)

This has to be tabled until the public hearing is completed. So do I have a motion to table?

LEG. STERN:

Motion to table.

CHAIRMAN BEEDENBENDER:

Motion to table by Legislator Stern.

LEG. MONTANO:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Montano. All in favor? Opposed? Abstentions? **(IR 1029 tabled. Vote: 6-0-0-1. Not Present: Legislator Kennedy)**

Now, before we go, Legislator Romaine has a couple of questions for the Commissioner. So, Legislator Romaine, if you'd like --

LEG. ROMAINE:

Last year at the end of the year, I called you, Commissioner, and asked you a series of questions. When I did not get a response to those questions, I later e-mailed you. I had my staff e-mail you the questions. Are you prepared to answer those questions today?

COMMISSIONER ANDERSON:

Yes. And in fact, this is regarding the penalties from the consent orders?

LEG. ROMAINE:

It starts with were all the County sewage treatment plants in compliance with New York State Environmental Law as it dealt with chemical bulk storage from the adopted law of 1995? Yes or no?

COMMISSIONER ANDERSON:

Yes, with a caveat. We have -- and I want to defer to Ben. We have had -- Ben, if you don't mind --

LEG. MONTANO:

If I may interject, could we have a copy of the questions?

LEG. ROMAINE:

I don't have them with me. Unfortunately my aide did not show up today. But I know them off the top of my head because they deal --

LEG. MONTANO:

Well, you know, I just figured it would be easier for me to go along if I had the questions while you were asking them.

LEG. ROMAINE:

I'll sum up at the end.

MR. MONTANO:

Okay.

LEG. ROMAINE:

There's a purpose to this because it may impact anyone that has a sewage treatment plant that's privately owned that has chemical bulk storage. And that's why I started with publically owned.

MR. WRIGHT:

We had an order on consent from New York State DEC, I believe, it was in 2004.

LEG. ROMAINE:

Tell me what the order of consent was about? Did that mean that you were in violation; you had to enter into an order on consent?

MR. WRIGHT:

Yes.

LEG. ROMAINE:

Okay. How many sewage treatment plants were in violation?

MR. WRIGHT:

I believe there were 14 that were included in that consent order.

LEG. ROMAINE:

There were 14 plants that violated the 1995 law; is that correct?

MR. WRIGHT:

Yes.

LEG. ROMAINE:

Okay. Let's proceed from there. Did that consent order require the County to pay a fine for each and every one of these violations?

MR. WRIGHT:

No. It was a negotiated amount. I believe it ended up being \$20,000.

LEG. ROMAINE:

What did the \$20,000 represent?

MR. WRIGHT:

It represented a portion of the initial request from DEC that -- it might have been a \$100,000 but it was -- there were a number of items --

LEG. ROMAINE:

They usually look for about \$5,000 per plant; and if you haven't notified them, if you haven't gone to them, they add another \$1,000 on. So it's usually \$6,000 a plant.

MR. WRIGHT:

That wasn't the way that the fine, the penalty were established.

LEG. ROMAINE:

Okay.

MR. WRIGHT:

It was \$100,000 and it was negotiated to pay 20,000 with still some stipulated conditions if compliance was not met within a certain date or it reoccurred.

LEG. ROMAINE:

And that 20,000 was in essence a fine?

MR. WRIGHT:

Yes.

LEG. ROMAINE:

Can you tell me, and I've asked which appropriation it came out of, because I've also asked Budget Review this question and apparently there isn't an appropriation for fines of this matter in our Operating Budget. And I'm certainly sure that people who served in the Legislature at the time you entered into this consent order was unaware of that.

MR. WRIGHT:

We had responded to a memo from the County Attorney's Office saying execute the consent order.

LEG. ROMAINE:

Right.

MR. WRIGHT:

And provide a check for \$20,000. And that is what was done. And it came from the Operating Budget.

LEG. ROMAINE:

It did?

MR. WRIGHT:

Yes.

LEG. ROMAINE:

Okay. We have representatives here from Budget Review?

MS. GAZES:

Yes.

LEG. ROMAINE:

Okay. I would like you to look into what appropriation that money came out of. You can meet with Mr. Wright, Mr. Anderson and determine what appropriation that came out of.

I would like to also, Mr. Wright, or, Mr. Anderson, whichever, if you could fax a copy of that consent order to my office?

MR. WRIGHT:

Yes.

LEG. ROMAINE:

Okay.

LEG. MONTANO:

Send us copies, too.

CHAIRMAN BEEDENBENDER:

Yeah, make copies available for the Committee, please.

LEG. ROMAINE:

And let me tell you -- now let me explain to my Committee colleagues the significance of this. There was a regulation that -- a law that was adopted in 1995. Now as you know our Health Department is the one that is the agent for the state in regulating sewage treatment plants. But apparently they're not the agent in terms of bulk chemical storage and failed to notify ever single privately owned sewage treatment plant.

Now, the state started with the County of Suffolk. And they found 14 of our plants in violation of the chemical bulk storage law from 1995 and they decided to levy fines. Now, to Mr. Wright's credit he was able to negotiate those fines down to \$20,000. I'm still curious because I've asked Budget Review this question, and apparently there is no appropriation in our Operating Budget then or now for the payment of fines to DEC. So I'm curious, and that's Budget Review's job because I have asked this question of Gail Vizzini and she said there is absolutely nothing and I don't see how it could have been done. So I'd like you to look into this and maybe share with this entire Committee that report.

This is my concern. Once they got finished with the public sewage treatment plants, DEC decided this year to go after the privately operated sewage treatment plants. And they had one thing in mind and that was to collect money. It was \$5,000 as a fine no matter what. And another thousand if you did not come and report yourself to them about a law that you didn't know existed. So it could be 6,000.

One of my sewage treatment plants Silver Ponds, it's a large condominium in Manorville came to me with this problem. They said, Mr. Romaine, we've complied with everything the Health Department has ever asked us to do and we never got asked to do this. And we got blind-sided by this and we got called in and we got handed this consent order and either we pay this fine or we're going to have all types of consequences.

Now the fine is on top of compliance. For Silver Ponds they tell me that compliance will cost them another \$40,000. They said that was never an issue. It's a heavy expenditure but we're prepared to comply. The thing that irks us is if someone had told us about this, we would have complied from the beginning. They got it down to 5,000. The 5,000 -- because they went in and ratted themselves out. The \$5,000 fine is absolutely incredible.

And then I found out, and what's so irking, Mr. Romaine, is the County of Suffolk knew of this

because their own sewage treatment plants were fined years before and they never alerted the privately owned plants of this problem. And now the DEC is going around one at a time to hit these sewage treatment plants for these fines for not compliance. It isn't a question of compliance because every sewage treatment plant privately or publically owned has agreed to comply. It was the fact that they had no knowledge of this. And the County did. And the County paid a fine.

And that's the reason I raise those questions. And I just needed that information. I didn't need to do it in a public forum but because I didn't get the answers that were raised, and I believe I raised them with you on December 28th or 27th of last year. And that's why I'm asking this in a public forum because this is going to impact -- I have many condominiums in my district that are going to be impacted by this. I have no answer for them why the County did not give them a heads-up because you got fined in what, 2004?

MR. WRIGHT:

Yes.

LEG. ROMAINE:

It is now 2007 and they're going around to all these private plants. If they could have had a heads-up, they could have been in compliance by the time DEC decided to go around and hit all of them up for fines; if you understand my point. And that left me in an embarrassing situation. I could offer no explanation.

CHAIRMAN BEEDENBENDER:

Well, if I could just jump in for the moment, I guess the -- Legislator Romaine has asked a series of questions. And I know, Legislator Montano, you want to speak and I'll get to you in one moment.

But my question would be, you know, several. Is there a legal obligation for the County to notify? And if there isn't, are we legally obligated to do so? And then the resulting questions from all those. Because I'm not sure what the case is but if there's a legal obligation from the County and we didn't meet it, that would be important. And if there is no legal obligation, are we legally allowed to do such a thing? If you can answer that now, fine; if not we can bring it up at the next committee meeting at the beginning. I'd just like these questions to be answered because I think Legislator Romaine does have a point but, you know, we need to know.

LEG. ROMAINE:

Here's the law, comply. I don't think it would be illegal because you would be saying here's the state law, we just got hit with this. You guys should comply.

COMMISSIONER ANDERSON:

Certainly from your questions I would have to defer to the County Attorney's Office because it is a legal question. And I certainly am not in a position to answer it.

CHAIRMAN BEEDENBENDER:

Okay. Well, then, I think what would be the best course of action -- actually, Legislator Montano, you had questions first.

LEG. MONTANO:

Actually, Mr. Chairman, you asked the questions I was going to ask. And I'm somewhat lost. And I wish I had an opportunity to look at the questions and familiarize myself with the subject matter. But I think it boils down to whether or not the County -- are you saying, Legislator Romaine, that the County had an obligation to notify the sewer districts, these private districts and failed to do so? I mean that's really the question, I think.

LEG. ROMAINE:

Obviously, since we have oversight of privately run sewer districts, I believe that we had if not a legal obligation, a moral obligation to point out to them that the state law was adopted and that the

state law -- my understanding is that the Health Department officials had sent people for training about this state law, chemical bulk storage; and that this law was going to -- it was being enforced and fines were being levied and people should attempt to comply. I don't think you are ever acting illegally when you encourage people to comply with state law. I think a heads-up is perfectly appropriate considering the situation.

And now we have numerous private sewage treatment plants being fined. And, in fact, at the meeting that we had at Silver Ponds, we had Assemblyman Alessi there and Senator LaValle to see if they could somehow do something with the fine. The condominium didn't object to the cost of compliance. Which is 40,000. They objected to the fine. And they were wondering if that could be folded in. And that's the major reason I asked that question because I wanted to see how the state handled the County. And obviously the state is handling the County in a very different way than they're handling the private sewage treatment plants because the County was able to negotiate down the fine from over 100,000 down to 20,000 to your credit.

However, the state is not bending on the private plants. And I don't understand why there's two standards. And I'm obviously going to raise that with the DEC Commissioner for the State of New York, Peter Grannis, and why there would be two separate methods of treatment; one for public plants and one for private plants. And why there was no attempt by DEC to at least demand compliance before imposing a fine. And why the County Health Department as an agent of the state did not at least try to give a heads-up particularly in light of DPW's experience in being fined in 2004, did not try to give at least a heads-up to those plants that still use chemical bulk storage for the sewage disposal process.

CHAIRMAN BEEDENBENDER:

Well, what I'll do is I will work with Commission Anderson to get the answers to the questions I posed as well as the ones the rest of the Committee did. And when I get the answers, I will distribute them to every member of the Committee and the whole Legislature if they see fit before the next meeting or as soon as possible because these are questions that deserve an answer. And when we get them, we'll distribute the answers.

I know that -- Legislator Montano, did that cover what --

LEG. MONTANO:

That's fine.

CHAIRMAN BEEDENBENDER:

Okay. Legislator Kennedy, you had a question on a separate matter.

LEG. KENNEDY:

Well, no. As a matter of fact, Mr. Chair, it is somewhat related to this. And I apologize for coming in on the tail end of this but nevertheless it's important to know. I appreciate the Committee with the tablings early today in the agenda for the two resolutions associated with sewer district four.

But let me ask, Ben, in this consent, I guess, that was negotiated with the bulk storage, is SD Four considered covered under that or does it revert to still being treated as a private operating entity at this point which we should expect some individual notification and then the need to go through compliance?

MR. WRIGHT:

No, it's not covered. If we were going to assume the full responsibilities, we would request all permits whether it's fire marshall building, chemical bulk storage be transferred to us at the time. If it wasn't, then it would have to be implemented before we took it over. But it's not included.

LEG. KENNEDY:

So we should expect, then, as we go through this notification that they'll be treated -- is there any

physical requirements associated with this? I mean do they have to construct pads or is there secure lockers for the chemicals?

MR. WRIGHT:

Yeah, I mean that was basically most of our non-compliance, was we didn't have a containment pad where the truck would park on it while it was making a transfer from the truck to a storage tank so that if there was any drippage or if the line broke it would be captured. So I'm sure that's not -- most of these private plants probably don't have something like that.

LEG. KENNEDY:

So what we're talking about, then, is maybe some infrastructure investment, maybe some piping, maybe some upgrade on whatever these containers are, things such as that?

MR. WRIGHT:

Yes.

LEG. KENNEDY:

What's the time frame to implement this? I mean if there's fines being levied now, this is what, something that's been on the books for quite sometime or --

LEG. ROMAINE:

1995.

MR. WRIGHT:

Yeah.

LEG. KENNEDY:

And there was no -- I mean this comes about as what, state legislation or federal legislation?

CHAIRMAN BEEDENBENDER:

State.

MR. WRIGHT:

It's a state law.

LEG. KENNEDY:

State legislation. And there was no general notification?

CHAIRMAN BEEDENBENDER:

I don't think Mr. Wright can answer for the state. I mean --

LEG. KENNEDY:

Well --

MR. WRIGHT:

No. Our notification was it was a consent order, compliance.

LEG. ROMAINE:

That's the experience with the private.

CHAIRMAN BEEDENBENDER:

Legislator -- yeah.

LEG. ROMAINE:

If I may --

CHAIRMAN BEEDENBENDER:

Yeah.

LEG. ROMAINE:

Legislator Kennedy, the private sewage treatment plants don't get a chance to comply, don't get a warning. They come in and say here's a consent order, you sign it, you pay a fine and you agree to comply. And it was like -- I thought that that was pretty rough tactics. And, of course, these sewage treatment plants were all complaining because they said we operate under the County. We get our license from the County. They review everything. We're in total compliance and no one ever told us that we had to comply with this chemical bulk storage. And now we're getting hit not only with the cost of compliance but with the fine to boot.

CHAIRMAN BEEDENBENDER:

Okay, like I said, we're going to work with the Commissioner. I'm going to try to wrap this up but I had Legislator Losquadro and then I have Legislator Montano.

LEG. LOSQUADRO:

Thank you. Probably you don't know this off the top your head, Ben, but you might only because we're currently in the process of the take-over. Do you know if the Talmadge Woods sewer district is one that would be affected by this chemical bulk storage? Or you don't recall?

MR. WRIGHT:

No, I can't tell you off the top --

LEG. LOSQUADRO:

If you could check into that and please let me know, this way maybe we can give them a heads-up in advance. Or that might be something on our punch list as we are moving closer towards the take-over.

MR. WRIGHT:

It usually is; I just don't know the answer right now.

LEG. LOSQUADRO:

Okay. Thank you, Ben.

CHAIRMAN BEEDENBENDER:

Legislator Montano.

LEG. MONTANO:

No, I'm fine. I'll wait until I get the feed-back.

CHAIRMAN BEEDENBENDER:

Okay. Anybody else? All right, with that I'll take a motion to adjourn.

LEG. STERN:

Motion.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Stern, second by Legislator Losquadro. All in favor? Opposed? Abstentions?

(THE MEETING CONCLUDED AT 2:40 PM)

{ } DENOTES SPELLED PHONETICALLY