

PUBLIC WORKS
AND
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, July 29, 2008.

MEMBERS PRESENT:

Legislator Brian Beedenbender - Chairman
Legislator Steve Stern - Vice-Chairman
Legislator Wayne Horsley
Legislator John Kennedy
Legislator Rick Montano
Legislator Daniel Losquadro
Legislator Edward Romaine

ALSO IN ATTENDANCE:

George Nolan- Counsel to the Legislature
Kevin Duffy - Budget Review Office
Gil Anderson - Commissioner - DPW
Tom Laguardi - Chief Deputy Commissioner - DPW
Kaitlyn Boyd - Aide to Chairman Beedenbender
Barbara LoMoriello - Chief Deputy Clerk - SC Legislature
Ben Zwirn - Deputy County Executive
Gail Lolis - County Attorney's Office
Jack Eddington - Legislator of the 7th Legislative District
Timothy Mooney - Fire Island Ferries, Inc.
Mary Parker - Davis Park Ferry
Charles Sherman - Davis Park Ferry
Lori LaPonte - Davis Park Ferry
June Haskins - Davis Park Ferry
John Lund - Davis Park Association
Stacy Berkowitz - Spring Meadows - Windwatch
Elliot Teitelbaum - Spring Meadows - Windwatch
Joseph Carabott
Debra Alloncius - AME
All Other Interested Parties

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 2:23 P.M.*)

CHAIRMAN BEEDENBENDER:

If I could ask any of the other Legislators on the Public Works Committee to please come to the horseshoe. We have enough for a quorum, and I'd like to start, because I know that we have a number of people in the audience that are here and want to speak and also have other places to go. We got backed up a little bit by the previous committee. So, we have a quorum now, so everybody could please rise for the pledge led by Legislator Horsley.

SALUTATION

CHAIRMAN BEEDENBENDER:

Everybody can be seated. All right. I know that we have a number of people who are under a bit of a time constraint, both because of the time of meeting and for other commitments that they have. So the first thing I have to do -- we're going to move up the actual resolution and the votes to get them done with as soon as possible in the meeting. But before we can do that, I have to allow everybody who wanted a chance to speak to speak. So I have about 15 cards, everybody has three minutes to speak. So with that, my first card is Herbert M. Balin. Mr. Balin, if you can just come to microphone. And everybody that's going to speak, just put on the record which resolution or issue you're speaking about. That would very helpful to us as we go through it.

MR. BALIN:

Thank you very much, Mr. Chairman, members of the committee. My name is Herbert M. Balin. I'm a member of the Firm Certillman Balin in Hauppauge and East Meadow. And I'm here to speak in favor of Introductory Resolution 1627, which is approving a construction agreement between Suffolk County Sewer District No. 13 - Windwatch and Motor Parkway Associates.

I represent the Holiday Organization, which are the recipient of all zoning approvals to construct 150 units next to the Hyatt Windwatch Hotel. This body previously approved this construction agreement. I believe the County Legislature previously approved this also. Unfortunately, it expired, and we're here for a reapproval. We've very much in favor of it. We're anxious to start construction hopefully by next year. And it will take a while for the Motor Parkway Associates, whom do I not represent, but Gene Wishod does, to get going and to expand the existing Windwatch Plant. So I'm in support. Any questions, I'd be glad to answer.

CHAIRMAN BEEDENBENDER:

Thank you. When we get into the actual resolution, we'll probably going to have a more in depth discussion. So you wouldn't mind hanging around for that discussion, sir. Thank you very much. My next card is Timothy E, Mooney, Mr. Mooney. And we're switching topics. I believe this is about the Fire Island Ferries. And Mr. Mooney, I believe you are from Fire Island Ferries.

MR. MOONEY:

That's correct.

CHAIRMAN BEEDENBENDER:

Okay. Sorry that I missed you the other day, we were playing phone tag.

MR. MOONEY:

That's fine. My name is Tim Mooney. I'm President of the Fire Island Ferries. And we have -- in front of you you have a fair increase that we've requested back in May of this year. And the fare increase ranges from between seven and 25% depending on the ticket type. You've received a Budget Review Office report. And, you know, I addressed the Legislature a little while ago, but we basically held off until the fuel prices doubled. Once they doubled, then I had to make a move to get a fare increase. And believe me, it's not something that we take very lightly.

And as result of our fuel costs at this point, we're projecting a loss this year of \$187,000. So that

will be pretty significant for Fire Island Ferries. And as president, that really doesn't sit all that well with me with my fiduciary responsibilities for the company. You know, these are unprecedented times that we're dealing with right now, especially in the area of fuel. And we really no recourse to make and adjustment to our fares except through the Legislature.

And the process that we are constrained with at this point is between a 60 and 90 day process. And, you know, in the past that may have been as adequate timeframe to do the reviews, but in these unprecedented times, that's a whole season for us. We came in May. If we're lucky, we'll get something done in September, and we will have lost the entire year of 2008 for any kind of fare relief.

And so, you know, in today's environment the Legislature is just, at this point, not responsive enough for us. And over the last five years, Fire Island Ferries has had about a 3.1% return on investment for -- for our efforts. And I suspect that many of you wouldn't sign up today for a 3.1% return on investment on anything. Our operation is much different than the other ferry service. And primarily due to our length of run, we use between three and six times more fuel than the other ferry companies do at this point. And so consequently we're burning about 380,000 gallons of diesel fuel a year. And a two dollar increase in fuel prices, you can figure that math out pretty quickly yourself.

Additionally, we have a contract to build a new ferry starting -- we're laying the keel for that in September of this year, and that's about a two and a quarter million dollar investment for us. And we have fleet upgrades and equipment upgrades that we need to take on in order to keep our fleet as efficient and effective as possible and also to really get into more -- more preferable areas in regard to our carbon footprint at this point. And that's engine replacements in all these big boats. And, you know, those are going to be about \$300,000 per boat themselves. So that's -- these are things we can't implement, especially if we have a loss moving forward for this year, let alone plan for those.

So we have really three main factors that we can't control; one is fuel pricing, the other is weather and the Legislature. Since two of those three things we can't address today, what I'm looking for really at this point is to salvage any portion of the season that we can. And so we are up next week, August 5th, for the public hearing. And I'd like to ask if we can get -- you know, get that out of hearing and get it into a vote right away so we have a chance of getting any kind of fare relief for this year.

CHAIRMAN BEEDENBENDER:

Well, I had heard that there was some discussion of trying to do that, which is why -- even though you guys just have public hearing before us today, we're probably -- I'm going to try to have a discussion among that today, because if there is a possibility that it will be coming before us on Tuesday for a vote of the full Legislature, I would still like this committee to have that opportunity. So once we dispense with the first two things, then we're going to into that one, sir, and have a discussion about that here as well since I know that you have been trying to advocate with the County Executive's Office as well to see if we can't have a CN to get this done on Tuesday.

MR. MOONEY:

We're in the same position as the guys from Patchogue. So any help we can get there, the sooner the better for us. Fuel prices haven't come down all that much for us, and, you know, we've been cutting some pretty healthy checks to the fuel companies at this point. So hang on, I'll be here.

CHAIRMAN BEEDENBENDER:

Okay. No problem, Mr. Mooney. Next I have Mr. Wishod. And just for -- while he's coming up, I have three other cards. I don't know how they got here, but once I get through everybody, if I've missed somebody, I'll give you an opportunity to come up as well. So, Mr. Wishod, you know the drill. Fire away.

MR. WISHOD:

I'm the attorney for Motor Parkway Associates in connection with this proposed expansion. The proposed expansion Windwatch Sewage Treatment Plant has taken place in three phases, all of which have received formal approval from the Suffolk County Sewer Agency. The first phase was an increase from 400,000 to 500,000 gallons per day, which was approved by the Legislature and signed by the County Executive in May of 2001. The second phase was the expansion of 650,000 gallons per day, which was approved by the Legislature and the County Executive in August of 2004. The third phase is the expansion to 750,000, which will be the last phase, and that is the matter that's before you today.

Motor Parkway Associates has entered into five contracts with third parties to supply gallonage for their projects ranging from 8400 gallons per day to 4750 gallons per day for the Holiday Organization. Motor Parkway Associates itself will require 106,000 gallons for it's Islandia project, which leaves 70,200 gallons available for other third party connectees, and we've had considerable interest in that regard.

The latest contract I indicated was signed with the Holiday Organization, and you've heard from Mr. Balin. Motor Parkway Associates itself signed a contract with its wholly-owned subsidiary. And that contract will incorporate the recent legislation requiring payment of prevailing wage rates on Public Works projects. I'll be available to answer any questions. That's in a nutshell. Thank you.

CHAIRMAN BEEDENBENDER:

Thank you, Mr. Wishod and for your comments and your brevity. Next I have, I believe this says June Haskins. June?

AUDIENCE MEMBER:

I'll be skipping.

CHAIRMAN BEEDENBENDER:

Okay. So you're skipping, no problem. Next we have Joseph Carabott. Mr. Carabott.

MR. CARABOTT:

This is not part of your agenda. My name is Joseph Carabott, I live at 135 Van Buren Street in Mastic. When the Department of Public Works to used our tax money to close Linden, they created congestion on Surrey Circle. Now they're going to use over \$500,000 dollars of our money to solve a problem that they created.

I showed a video of the traffic on our roads. And the video and the traffic of another -- east road at the Smith Point Property Owners Association. And the president asked me what type of study the Department of Public Works makes when they saw an east road hardly any traffic on it and our road nonstop traffic on it. Okay. What I'm advocating is open a left turn into Linden only in the afternoon between 1:00 and 8:00 in the afternoon.

As I heard yesterday, somebody saying this is the most -- one of the most congested communities in the Island, somebody talking Mastic-Shirley and the protection of waters, etcetera, etcetera. We have no -- we have hardly any roads in that area to support the population we have over there. What I'm saying is lets have more roads open to traffic to move a little bit freely and fairly. Thank you.

CHAIRMAN BEEDENBENDER:

Thank you Mr. Carabott. Next we have Zabby. You know the drill, step up to the microphone, you have three minutes.

MS. ZABBY:

Well, I hope Mr. Kennedy and Mr. Romaine will be attentive here as well as Mr. Beedenbender who I heard speak at the Budget and Finance Committee. And actually Mr. Eddington was there and

Mr. Montano, of course, led the meeting and Mr. Horsley and Presiding Officer Lindsay was there some of the time.

In any case, I just am here to support Joe Carabott's previous speech talking about the wastefulness of this County how they allocate our taxpaying -- our taxpayer money. An here we have eminent domain where the business owner -- or really one sustained business --

You're paying the business \$400,000, then 150 to make the most ridiculous move to do -- to stop traffic or to -- to actually -- to make the situation of traffic better on Surrey, when, in fact, you created the problem by, in fact, stopping the left turn signal that used to be on Linden.

You created the problem, and now taxpayers are, in fact, paying the bill. And the use of eminent domain as well, which is just taking of property for the supposed public good. Well, I say that -- and this man, he sent me of a copy of all the work he did and all the research. And instead of listening to somebody in the neighborhood -- and, in fact, from his letter he says to Mr. Beedenbender that was given January 17th -- and I'm calling for the rescind -- that you rescind the resolution and stop the Surrey project and do the smart thing, which the people of the community want.

And from his letter, adding another left turn lane that leads into these roads, into the Surrey roads, will only add more traffic. This is the consensus of every person with the exception of the DPW personnel, although Mr. Hillman told him at a meeting that they couldn't find anything -- any faults with what Mr. Carabott had written.

And so you guys just disregarded public input to just go ahead and, in fact, make a project that doesn't make any sense. If you look at the map, you will be -- that Surrey Road is so near the railroad tracks, and you want to make a left-hand turn when the train is coming so many times. And I travel that way very much. And really there's -- it would be better to put the left-hand turn lane down past Hennessey's Office and the Union Office and reopen it. Reopen it.

CHAIRMAN BEEDENBENDER:

Wrap up.

MS. ZABBY:

Reopen it the way it was before you created this mess at taxpayer expense. And here you're trying to figure out why you don't have enough money. It's because you misspend taxpayer dollars, all of you.

CHAIRMAN BEEDENBENDER:

Okay. Next I have Stacy Berkowitz speaking about the Windwatch STP Plant. And for my colleagues, I believe that's Resolution 1627 on our agenda today. Stacy, you have three minutes at your pleasure.

MS. BERKOWITZ:

Thank you. My name again is Stacy Berkowitz. I'm the President of the Board of Directors at Spring Meadows in Hauppauge. I represent the over 300 residents that live in our community. Our residents are made up mostly of senior citizens, single moms and couples that are just starting out. As you know, we joined this expansion project eight years ago. The past eight years difficult for us. Our only income is generated from the maintenance our residents pay. These funds are used to operate and maintain our community. Each board from the inception of this project to the present day has been fiscally responsible and ensured that every extra dollar was saved for this project, the unknown cost always looming over our head.

Our budget has been to the bare minimum. Our community has sacrificed greatly over the past eight years. We have 35 year old boilers that are not efficient, and with natural gas at an all time high is a great detriment to us. Our windows need to be replaced in order to help current every increasing energy costs. We have no sprinkler systems. Our residents take pride in their community and are watering their lawns and gardens in order to help keep our property looking

nice. This is just a small picture of the many issues our community faces everyday. There are things not visible to an outsider and go unnoticed to all of the parties who are controlling the outcome of this project.

With costs and inflation rising and Long Island's housing market becoming less and less affordable, we are afraid. The outcome of this project threatens to shrink the value of our homes and will therefore create a bigger financial burden to all of us. We are pleading with you today to allow us the opportunity to explore alternatives, be that to cost to the project or both. The result of this project can potentially devastate our community asking. We are requesting that any vote today be tabled. We cannot afford the consequences of this situation becoming worse. We are requesting it be tabled until we know the full firm cost it will take for our community to participate in this project. Thank you for your consideration.

CHAIRMAN BEEDENBENDER:

Thank you, ma'am. Next on my list I have Elliot Teitelbaum. I have sympathy for you, sir. You're from Spring Meadows and you're talking about the Windwatch project as well.

MR. TEITELBAUM:

Yes. I am also here with Stacy Berkowitz and a number of the residents from Spring Meadows. And what I'd like to convey is some of the sentiment of many of the residents at Spring Meadows. I've been there since -- for about six years now. When I first came there, the talk was about the sewage treatment plant. Every committee meeting we've had, they've spoken about it and nothing was able to move forward. And every time for the last six years in every meeting this is what was spoken about.

So what happens is people -- people are waiting. They're not -- we are not spending any money at all on a number of projects that we need to have done. For example, we have roofs that need to be done, we have siding, we have the boilers, which are very old. We have -- Stacy mentioned the sprinklers, we have -- windows as well. We really don't know how much this is going to cost. We'd like to get this done as soon as possible obviously, but we don't know how much it's going to cost.

And now I've been hearing a lot of conversation from the residents, and people are thinking about moving, selling their apartments, selling the co-ops. And frankly, we're very concerned because of the cost of the apartment may go down because of this. So we really do need to table this until we find out how much this is going to cost the community. Thank you very much.

CHAIRMAN BEEDENBENDER:

Thank you, sir. Next I have John Lund who, I believe, is from the Davis Park Homeowner's Association. Mr. Lund.

MR. LUND:

Good afternoon. Thank you for let me address you. We're here today to ask you to please move this out of committee, get it to the full Legislature. Davis Park Ferry Company started this process last October, I believe, in paper, went to County in January, a number of stumbling blocks, I think they've overcome them all. I think they're ready. They lost money last year, they're gonna lose a lot more this year. Our service has already been cut, and it will have to be cut further this fall unless there is some rate increase.

I would also say to you that whatever you give them in August, as you heard before, it's not going to help the 2008 season, and they will probably be back before you in November or December looking for a rate increase for next year. As I understood it last week, a CN is going to be necessary to move this on August the 5th. So I'm asking you again to please get this out of committee, get it to the Legislature.

CHAIRMAN BEEDENBENDER:

Not for this one, sir. Is it for this one? I apologize, sir. Go ahead. I apologize for the interruption.

MR. LUND:

Okay. That's our concern. Davis Park is a small community. It's served by one ferry company. The other ferry company you heard from is serving between eight and nine communities. You know, they are all in trouble. You'll see them all next year.

CHAIRMAN BEEDENBENDER:

We've seen a couple of them already this year. Thank you, sir. Okay. Next up I have Joseph Prokop from the Village of Islandia, I think it says. And you are speaking on the Windwatch project.

MR. PROKOP:

Thank you. Right. I'd like to speak to Resolution 1627. My name is Joseph Prokop, I'm the village attorney for the Village of Islandia. And I was asked to come and speak on behalf of your approval of the construction agreement and express the support of the administration of the village on behalf of the resolution. We believe the project if it's approved will serve the needs of many of the Homeowner's Association and others needs in the village. And it's an important improvement to the village that we look forward to the completion of as soon as possible. Thank you.

CHAIRMAN BEEDENBENDER:

Thank you, Mr. Prokop. All right. Next I have Vincent Pizzulli representing Motor Parkway Associates, and this is also in reference to the Windwatch Plant.

MR. PIZZULLI:

Thank you, Mr. Chairman. Good afternoon.

CHAIRMAN BEEDENBENDER:

You have three minutes.

MR. PIZZULLI:

Thank you. I'll be a lot less than three minutes. Most of you have heard too much from me already. I am zoning and land use counsel to Motor Parkway Associates. And I did want to reiterate to the committee that we do have an application pending to create a planned -- a Main Street planned development district in the Village of Islandia. And that is the gallonage -- 106,000 gallons for which we need to connect to the Windwatch Plant. So I will yield my time to anyone else who needs it. And I think you've heard most of the sentiments today.

CHAIRMAN BEEDENBENDER:

Thank you very much. I have three cards left. I have Mary Parker. Ms. Parker, are you here?

MS. PARKER:

Yes, I am.

CHAIRMAN BEEDENBENDER:

Okay. Take your time, don't rush. All right. Right behind Ms. Parker is going to be Charles Sherman. So if you could just be prepared, Mr. Sherman. And this is in reference to the Davis Park Ferry. So, Ms. Parker, you have three minutes.

MS. PARKER:

Yes. Hello. Thank you very much for listening to us today. I'm here to again ask that you grant a rate rise increase for the Davis Park Ferry Company, the Certificate of Necessity if at all possible. We need an immediate increase based on the same reasons that Mr. Mooney was mentioning for the Fire Island Ferry Companies. But as John Lund was telling you, our ferry company is much smaller. They had a loss last year of approximately -- I heard one estimate -- \$16,000.

At the time that we asked for the rate increase in January, the estimated loss for 2008 was about

30,000. Now that loss, since we never got any increase, is looking like 180,000 for 2008 based on revenues of only one million. I don't know the size of the Fire Island Ferry Company's revenue, but it's bigger. So it's more devastating for a small ferry company serving one community than it is a large ferry company serving many communities.

They have the cost of fuel. One of the first things they decided to do was to reduce the schedule. So we have a reduced schedule now, which is affecting our community, it's affecting merchants. We have a restaurant which is being severely affected, the stores are affected, the renters are affected, the homeowners are affected. And we're concerned that in the fall, there may be even a further reduction. We appreciate anything you can do to help us out here. And I thank you very much for time.

CHAIRMAN BEEDENBENDER:

Thank you, Ms. Parker. Okay. Mr. Sherman. And behind Mr. Sherman our last card will be Lori La Ponte, I believe it says.

MR. SHERMAN:

Yes. I'm Charles Sherman. I'm the President of Davis Park Ferry Company. Just to rehash what Mary had said is our projection that we gave to the County in December of last year was \$180,000 loss if we did not get an increase. We instituted a lot of cutbacks hopefully to, you know, stop the bleeding a little bit. But the -- being such a small company, we can't -- you know, I don't know if we're going to survive this fuel crisis that we're going through. Come fall, there may not be any money left to run a service in the fall. So I really want the Legislature to, you know, consider the CN and get this out of committee before -- you know, as soon as possible so you can vote on it on August 5th.

CHAIRMAN BEEDENBENDER:

Are you done? I'm sorry. I didn't mean to interrupt you. All I was going to say is that what we can do -- today we can't pass it, because there's a public hearing. So the public hearing would occur on Tuesday, and if the County Executive sends us a CN, that's when we can consider it. The Legislature doesn't have the power to issue a CN. That's why I said we're going to have the discussion here in committee today so there's some basis of knowledge as the Legislature should that happen on Tuesday.

MR. SHERMAN:

Okay.

CHAIRMAN BEEDENBENDER:

Okay?

MR. SHERMAN:

Very good. Thank you.

CHAIRMAN BEEDENBENDER:

All right. Last, we have Lori LaPonte.

MS. LAPONTE:

Hi. I'm Lori LaPonte. I'm the independent auditor from Sini and Reeves. We're the CPAs for Davis Park Ferry. One of the things they asked us to do was come forth because there has been a number of reports talking about their cash controls. They have a cash control system in place that has been reconciled to their financial statements. We did provide that Budget Review Office. And I think in their recent report, which they handed us today, they do mention that they're more comfortable in that position.

Given the size of the ferry and their resources, they have a system that was in place that was only being done on a monthly basis. We helped them get -- grab their arms around it, and it's done

annually. And we had no issues with it, so we put that in our report. I just did want to mention too that the Budget Review Office gave us a report this morning pointing out some further things that they're asking for Davis Park Ferry to present them with. And I want to mention that most of them, once we discussed them this morning, were able to chip away at them. So these things that are being requested by the ferry, as quickly as somebody asks them, they're turning them around. That's it. Thank you.

CHAIRMAN BEEDENBENDER:

Thank you, ma'am. Okay. I know that, like I said earlier, there are number of people who are under severe time constraints. So what I'm going to do is -- I would like to at least -- I'm going to make a motion -- is there anybody else who did not fill out a card that wishes to speak? Sir. Come on up, Jimmy. Just identify yourself once you get up there.

MR. ROGERS:

Sorry. I got here a little late. Jimmy Rogers with DC 9 Painters and Allied Trades Union. I'm here to speak in favor of Resolution 1627, approving construction agreements between Suffolk County Sewer District Number 13 - Windwatch and Motor Parkway Associates for the expansion of the sewage treatment plant.

I just have one question. I heard mention before about the prevailing wage, and I was just curious if there's an apprenticeship agreement along with that.

CHAIRMAN BEEDENBENDER:

I do not know the answer off the top of my head, but what we're going to do next is bring it out of order, and we're going to have attorneys up here from the groups, and we will ask them that question and get you an answer for that.

MR. ROGERS:

And one other question. I wasn't sure if -- if it's going to be prevailing wage, I guess it's not a Public Works Project. And I don't know if they have to follow the Wicks Law.

CHAIRMAN BEEDENBENDER:

Okay. I will add that question to the one that we will ask when they get up here. Counsel, do you have -- can you provide an answer to that question?

MR. NOLAN:

I believe the resolution involves letting a private entity come on and do the -- do the construction. So off the top of my head, I believe it's not going to be subject to the -- to those types of laws. It's a private entity doing the work. But I would like to double check that, that's just off the top.

MR. ROGERS:

Thank you.

CHAIRMAN BEEDENBENDER:

Okay. All right. And I guess I would like to welcome up -- and I will use your official title -- Councilman Martinez. Congratulations, sir.

MR. MARTINEZ:

No. I'm carpenter Martinez today.

CHAIRMAN BEEDENBENDER:

Well, I'm going to call you Councilman anyway.

MR. MARTINEZ:

Thank you very much. Do appreciate that. Tony Martinez, Empire State Regional Council of Carpenters, 270 Motor Parkway, Hauppague, New York. My colleague in the Building Trades just

asked the question if this going to be prevailing wage apprenticeship language. And I just make the counsel aware that last year in September -- August or September there is law called the Pyramid Law that requires apprenticeship -- prevailing wage and apprenticeship language on projects that leased back, you know, from a municipality. This falls under that -- under that, you know, litmus test by the DOL. So my question again is will this be a prevailing wage apprenticeship language project.

CHAIRMAN BEEDENBENDER:

Well, it was my understanding -- we spoke yesterday. It was my understanding that the prevailing wage is in, but in terms of the apprenticeship language, I don't know that. But what we're going to do next is we're going to have a little bit of a discussion on the bill and hopefully we can bring that answer out in our discussion, Mr. Martinez.

LEG. KENNEDY:

Mr. Chair, I'll make a motion to take it out of order then if we can to go ahead and move it forward, since, as you've pointed out, we have many members in the --

CHAIRMAN BEEDENBENDER:

There's a motion to take it out of order.

LEG. MONTANO:

I'll second it.

LEG. KENNEDY:

Yeah, but if we have a simple matter that's coming forward that's ministerial, certainly I'll be happy to go ahead and yield to the Legislator from Patchogue.

LEG. EDDINGTON:

I's like to take -- that one is listed first, so.

LEG. KENNEDY:

Sure.

CHAIRMAN BEEDENBENDER:

There's a motion to take Resolution 1171, approving the rates established for Davis Park Ferry Company out of order -- 1174, I apologize.

P.O. LINDSAY:

We haven't had a public hearing yet.

MR. DUFFY:

Excuse me, Legislator Beedenbender.

CHAIRMAN BEEDENBENDER:

Yes.

MR. DUFFY:

You can't vote on the resolution because the public hearing is still open.

CHAIRMAN BEEDENBENDER:

All right. Right. Let me just center us all back here right now. I'll give everybody in the crowd an idea of what's going on so nobody as though they're being slighted. The Davis Park Ferry Company resolution before us must be tabled because the public hearing isn't closed on the floor of the Legislature. It was my intention to have a discussion here since there was some indication that there might be a vote on that on Tuesday with a Certificate of Necessity. So we will have that.

However, since we can't vote on that, I would like to actually withdraw -- Legislator Eddington, if you withdraw your motion for now, and we're going to -- since we can vote on the Windwatch project and there are a number of people here who are also under a time constraint, I'm going to make a motion to take that out of order. Do I have a second?

LEG. KENNEDY:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Kennedy. And as soon as we finish that, we'll move into the discussion on Davis Park. So we have a motion and a second to take **IR 1627, approving the construction agreement between Suffolk County Sewer District 13 - Windwatch and Motor Parkway Associates for the expansion of the sewage treatment plant by 350,000 GPD (COUNTY EXEC).**

All in favor? Opposed? Abstentions. All right. This bill is before us. Now, we're going to have a discussion on this, but Counsel, I believe you would like to weigh in before we get to that discussion.

MR. NOLAN:

Well, the issue came up whether SEQRA has been done on this particular resolution. I checked with Jim Bagg from the Planning Department, who's lays on to the CEQ. He advises that SEQRA has not been done. This resolution really does need to go to CEQ in August before we act on.

CHAIRMAN BEEDENBENDER:

All right. If that's the case and there's no conflicting information from either CEQ or DPW, then for everybody here, we're going to have the discussion because everybody's here and there's no need to make you come back again, but we're going to have to table this if this -- if there is no environmental review, legally, we can't move forward. So we have another meeting in two weeks. I don't believe that CEQ meets in the interim. Jim, are you here. They meet on the 20th. So this would get moved until the very least into our first meeting in September, because CEQ hasn't met. However, since everybody is here, I think we should have a little bit of a discussion on the facts. So, Legislator Kennedy, if you'd like to -- we'll try to keep it brief, but I'm sure there's things that you'd like to say.

LEG. KENNEDY:

Yes. Thank you, Mr. Chair. As a matter of fact, just a couple of points. One, I want to thank the folks from Spring Meadow for coming out, because as you can here, I think, they're expressing a certain sense of frustration that's been approximately eight years since they first entered this agreement. And they've gone through many iterations as the proposed expansions have increased. I think it all gets down to what the ultimate cost is going to be that the residents are going to have to bear. I do know that there may be some additional specific information. Hopefully, we'll be able to get that from their Counsel.

I did receive a letter from Spring Meadow's Counsel, Gary Hisiger, which I've circulated to the members and we've given to the Clerk. Rather than reading it in, I don't want to take everybody's time up, but on behalf of his clients, he's kind of raised those same issues that these residents have gone on and forestalled many necessary capital improvements and are really bearing a burden of an unknown. If we're at a specific figure and it's something that's not burdensome or disproportionate to the residents, then I think they'll be more than happy to embrace it.

There also has been an alternative that's been detailed with the knowledge of Public Works and Nelson and Pope to contemplate direct connection. But again, I think the ultimate objective of the residents here is just to effectuate connection without having a disproportionate financial burden. I am equally curious to find out though, Mr. Chair, as our esteemed Councilman from Babylon posed, and perhaps maybe somebody from Public Works or from the County Attorney's Office can tell us, whether or not this agreement and the subject projects are going to have to include the approved

apprenticeship language.

CHAIRMAN BEEDENBENDER:

Well, we're going to have a couple more questions. So to do that, Mr. Pizzulli, I guess it would probably be or Mr. Wishod, whoever you deem most appropriate to answer some of these questions as well as if there's -- Mr. Wright, would this be an appropriate question for you? No? Then -- wherever -- I don't see a County Attorney's representative unless they're behind the podium. There's Gail. If we could have you guys come up. And I guess -- we're going to need somebody from the County Attorney, we're going to need Counsel, so we'll just try to do a mix and match of the seats here. So I guess Legislator Kennedy's first question is is this subject to the apprenticeship language.

LEG. KENNEDY:

As a matter of fact, Mr. Chair, I guess I'm going to so far as to ask a two-part question as I often do.

CHAIRMAN BEEDENBENDER:

Just direct it at somebody and that will be fine.

LEG. KENNEDY:

Okay. Fine. Gail, to yourself or I guess to Linda, we really have two entities here. And I just -- I'll confess, I don't understand what the statutes direct when we're contemplating the County ceding some of its authority to a private entity that's then engaged to construct additional capacity who then in turn is empowered to vend that capacity to other private entities. Where does our governance go, where does our reach go, where does our control go, and what does the private entity have to do, A, in constructing that capacity, and, B, in vending that capacity out to other entities? How do you like that one.

MR. WISHOD:

Legislator Kennedy.

CHAIRMAN BEEDENBENDER:

Hold on, Mr. Wishod. Can we just have the County Attorney first, please.

MR. WISHOD:

Well, I just wanted to give some background. We have had multiple County expansions.

CHAIRMAN BEEDENBENDER:

I will give you that opportunity. If we can just have the County Attorney first, whichever County Attorney.

MS. SPAHR:

Linda Spahr. With respect to the question of this being a project that's on County property, due to recent changes in the New York State Labor Law, Section 220, which is typically known as the Prevailing Wage Law, the entire project is subject to prevailing wage. That's a change that took place within the last year. And there were a number of different changes to the statute, and that's one of the things that caused some of the recent delays. So that's the part about the costs for the project, maybe that's up in the air, I don't know if that's impacted. With respect to the vending, are you asking a question about Wicks Law?

CHAIRMAN BEEDENBENDER:

And apprentice language, it would appear.

MS. SPAHR:

Okay. I do not believe that those apply, because they are going to be paid for out of private dollars.

LEG. KENNEDY:

Okay.

CHAIRMAN BEEDENBENDER:

Was that the extent of your questions, Legislator Kennedy?

LEG. KENNEDY:

Well, it is as to the expansion here, Mr. Chair. The only other thing that I'd like to ferret out, I guess, is what, in fact, was the projected cost or the offered cost to the residents when the agreement was actually first executed eight years ago as opposed to what may or may not be a contemplated cost now? And whether the County Attorney's Office knows it or anybody else, I guess --

MR. WISHOD:

I know it.

CHAIRMAN BEEDENBENDER:

Go ahead, Mr. Wishod.

MR. WISHOD:

The cost we got from our engineers at the time was turned out -- of course, we would not -- we would not know cost until we went to bid. We went to bid. We circulated a chart over six months ago to all the connectees, including Spring Meadow, giving them exactly the cost, the amount of money they would need to pay their pro rata share of the expansion. That amount was double what our engineers had estimated. That's due to a whole lot of factors that we don't have really time to go to.

But to say that these communities don't know how much it's going to cost, that's not so. I mean they were told with a very comprehensive chart. Now, we're trying to -- we were trying to cut costs. And we were going to do the work ourselves rather than bid it out to a third party we couldn't control. Our costs are accelerating with the price of materials. But, of course, we recognize that if we're subject to the prevailing wage rates -- and we don't want to get into a contest with the County Attorney, we're willing to accept their judgment -- that, of course, is going to add to the cost of our project.

So far as the CEQ is concerned, I've been involved with major expansions of County-owned plants; District 11, Parkland 14, there has never been a SEQRA determination by the CEQ. The SEQRA determination comes to the individual projects who are connecting. It's a two-phased project; we expand the plant and every -- every one of our contractees who wants to connect to the plant must come before you -- come before the Sewer Agency. The Sewer Agency will not give them formal approval unless they have a SEQRA determination. The Sewer Agency will then pass on it, it will come before you folks and then will go to the Legislature.

It has never gone for an Environmental Impact Statement or a SEQRA review for any other expansion in the history of Suffolk County. And our engineer in this product, Steve Haddick, advises me while he was commissioner, he's never heard of that either. It's something brand new that I never heard of until I walked in here today. Now, we're going to have to table this in order to have the CEQ make a determination when the SEQRA determinations are going to be made when each project wants to connect. But I don't know what other questions -- what else would you like to address? I've addressed cost. I've addressed the CEQ.

CHAIRMAN BEEDENBENDER:

Okay. Well, you bring up a point. I know that Presiding Officer Lindsay has some questions, so why don't we allow him to jump in right now. I'm not sure if they'll be directed toward you or anybody else at the table or in the room.

P.O. LINDSAY:

I don't think fully answered the cost to these residents out here. The sheet that was circulated six months ago evidently isn't prevalent anymore, the costs have went up. So you have a more accurate cost estimate for them?

MR. WISHOD:

No. This is a very accurate cost estimate. Spring Meadow on their contract -- we have a written contract with them -- paid \$454,500 on a count of 30,400 gallons per day. The balance due on a pro rata basis is \$1,174,590.60. That's based on a cost of slightly over 16 million. My engineer tells me that's a very accurate cost as far as we can project it to them.

P.O. LINDSAY:

Do you know what that could cost per residence?

MR. WISHOD:

No, we haven't -- we haven't projected that. We've only projected what our contract calls for.

P.O. LINDSAY:

Okay. Because I think that's what these folks are looking for. They want to know what it's going to cost them every month.

MR. WISHOD:

I understand that. We have a meeting next week with their new counsel and their new engineer to discuss these problems. We're going to -- with your permission and the Legislature's permission, we're going to expand this plant to 750,000 gallons. The capacity is going to be there. If there are disputed about the meaning of our contract or about the costs, they will either be resolved by settlement among the parties, and we have a meeting with their attorney to discuss that, or they're going to be resolved in court. They can't be resolved by the Public Works Committee when we have a written contract and we have to interpret what the contract means.

P.O. LINDSAY:

With all due respect, Mr. Wishod, we're here to serve the public. We just heard from a number of residents that have a simple question. They want to know what it's going to cost them. And I think that they have a right to know that.

MR. WISHOD:

Agree with you wholeheartedly, but we told their then attorney at the time, we had many, many meetings about this, why we were going two years through the approval of the plans and specs, and their then attorney was present at all those meetings. We gave them the best cost estimates and we sent a chart detailing what every connectee is going to pay, including Motor Parkway paying over \$9 million for the capacity that they need.

P.O. LINDSAY:

So the chart is still relevant.

MR. WISHOD:

Yes. That's what my engineer tells me based on current costs. Is that Correct, Mr. Haddock?

MR. HADDOCK:

Yes.

P.O. LINDSAY:

And the other issue was prevailing rates, and evidentially, that's been resolved.

MR. WISHOD:

Yes. We're going to pay prevailing wage rates. It's going to add to the cost of the job, but the

County Attorney tells us this is a Public Works project and it's subject to the amendment. We're not going to get into litigation with the County Attorney or with the County about whether that's correct or not correct.

CHAIRMAN BEEDENBENDER:

Does that chart contemplate that fact?

MR. HADDOCK:

Yes.

CHAIRMAN BEEDENBENDER:

Yes. Okay. We have a couple more Legislators that -- that want to speak. But I'm kind of perplexed by their -- because I have a piece of paper in front of me that says how much it's going to cost. So I guess what I'm confused about is if I have it and the attorneys have it, then how does everybody not know? So that's confusing to me. I mean, I'm just going to read what I have in front of me, and if it's incorrect and somebody in this rooms knows it's incorrect, just tell me. There's an attorney for the homeowners here, was there not?

LEG. KENNEDY:

Mr. Chair, no. He was not able to be present. As a matter of fact, he had a conflict in the City. Ms. Berkowitz is here, though, as the President of the Homeowner's Association.

CHAIRMAN BEEDENBENDER:

Okay. Then what I'd like -- so at least we know this, and then I will get back to the Legislators who were on the list. Mr. Pizzulli -- I mean, you sent this to me, so you could read it, I could read it -- tell everybody that's sitting behind you how much it's going to cost, and then we will have a discussion of where the disconnect is, and then we can have a decision of what -- of what's going on here.

MR. PIZZULLI:

Sure. Okay. Recognizing that I did run some numbers based upon the very numbers that Mr. Wishod has advised you are accurate, and these are rough projections based upon the estimates to date that we have. If you have a capital cost to let's Spring Meadow, for example, if the capital cost of connecting to the Windwatch Plant through the consortium is \$1,629,000 and you were to divide that amount by the number of homeowners in Spring Meadow, I believe you would get a capital cost per homeowner of approximately \$12,000 and change.

I think if you did the same formula for Townhouse Village South, which I believe has more units in that, the capital cost would roughly be the -- would roughly be the same. But the point I'm trying to make is some of the numbers that we have presented to you, we have considered other alternatives. One of things that was floated as an alternative was for each homeowner's association to construct its own individual -- or replace its own individual on-site STP. And it's clear from everyone I've spoken to including the engineers, Mr. Wishod and everybody else that that would clearly be the most expensive alternative for the homeowners, but they can speak for themselves on that issue, I'm not speaking for them.

What was of great interest, though, in that alternative comparison was that do if they replace their individual STPs on-site, their capital cost according to their engineer is approximately \$3 million to replace that cost, which is considerably higher than the apportioned cost of participating in the expansion of the Windwatch Plant. But more importantly, their per annum recurring cost of maintenance would be much higher under that alternative. So I can't -- as I said, I can't speak for them, but that doesn't seem to be a viable alternative.

CHAIRMAN BEEDENBENDER:

Ms. Berkowitz, can you come up? And Legislator Stern, go ahead.

LEG. STERN:

Let me just see if I can come up with a summary of some of the numbers that I found most compelling, and disagree if you please. But the capital cost to replace Spring Meadow and the Townhouse Village South would be approximately \$3 million each. By comparison, when we're talking about connection, the approximate cost would be \$1.6 million for Spring Meadow and approximately \$1.7 million for townhouse Village. That's a 40% capital cost savings to the homeowners.

MR. PIZZULLI:

Yes. You have the same answers I do.

LEG. STERN:

Okay. And then going on to the annual numbers, the kind of savings that may be possible is a recurring cost. Spring Meadow and Townhouse Village, if they were to construct their new plants, their operating cost would be approximately 80,000 and \$90,000 respectively. So the annual cost per homeowner in Spring Meadow would be \$593, and the annual cost per homeowner at Townhouse Village South would be \$577. By comparison, the numbers would be approximately \$105. So the savings in recurring annual maintenance cost would be more than 80% for every homeowner in both residential developments.

MR. PIZZULLI:

That's correct, Mr. Stern. And those numbers are based upon our engineers calculations.

LEG. STERN:

Did those calculations presume prevailing wage?

CHAIRMAN BEEDENBENDER:

You said yes before, right?

MR. HADDOCK:

Yes.

CHAIRMAN BEEDENBENDER:

Okay. Ms. Berkowitz, all that information that Legislator Stern just read, is that stuff that you -- is that information that you and your fellow homeowners and the association have been -- have seen? Have you gotten that?

MS. BERKOWITZ:

Well, we did see the chart that Mr. Wishod was speaking of. There's a couple of things that are not mentioned in that. That chart is not the only cost to this project for our complex. We also have to build on-site a pump station and a pipeline directly connecting us to that pump, which originally when we got the estimates for this eight years ago, was in the few hundred thousand dollars range. Now they're up towards the million dollar range. We also have to disassemble the pump station -- the sewage treatment plant that we have on premise, which is another four or \$5000, so we're told. And these prices rise every day.

So the \$3 million that you're saying would -- it would cost us should we choose to build on-site, that's where we are if we connect to this project as well. So there's another piece of this puzzle. We were -- did see that. We were that they signed a contract. We were also told that they were negotiating to try to reduce the price on the -- on the amount, and we have been up in the air on where that price is, if it's gone down, if it's changed at all. Now we're finding out that it's going to be even higher than that because of this prevailing wage situation.

And we've also -- you have to understand one thing. When we entered into this agreement, we knew nothing about this project changing to the position that it's in now. We entered into an agreement when this was only going to be expanded 100,000 gallons. The entire scope of this

project changed. We had no idea that that happened until after it was done.

CHAIRMAN BEEDENBENDER:

You were mentioning that the capital costs; you know, the pump station and the pipe and all that stuff increased. That stuff -- I mean, that would be included if you hook up to the district. That's included when you hook up to the district. But you are saying that the cost this, one point -- you're in Spring Meadow, all right?

MS. BERKOWITZ:

Yes.

CHAIRMAN BEEDENBENDER:

All right. So the number that I have is one point -- just say I have \$1.8 million. And that -- you are saying that it's going to cost you \$1.2 million to hook up to the district so it brings you to the same level.

MS. BERKOWITZ:

However, if we hooked up directly, we would be paying X amount of dollars, but we wouldn't be paying for construction of a new plant and the expansion of this plant.

CHAIRMAN BEEDENBENDER:

Hooked up directly to what?

MS. BERKOWITZ:

Maybe I misunderstood the question.

CHAIRMAN BEEDENBENDER:

The two options -- have I -- if you can clarify, because I think I lost myself.

LEG. LOSQUADRO:

I have a question, it may be a moot point, is there excess capacity in SD 13 to hook up these communities? You're talking about a direct hookup, ma'am. Mr. Wright, perhaps, is there excess capacity in those plants to facilitate that connection currently? Because if that's not the case, then we would have to be talking about an expansion anyway to facilitate any hookup. Ben.

MR. WRIGHT:

Yeah. All the capacity is committed. The actual flows are less than that committed flow, yes.

LEG. LOSQUADRO:

That was the answer.

CHAIRMAN BEEDENBENDER:

So what you're saying, Mr. Wright, is that there is not sufficient uncommitted capacity in SD 13 for a direct hookup right now.

MR. WRIGHT:

Yes.

CHAIRMAN BEEDENBENDER:

So the only way for these two communities to hook up is if we expand the plant.

MR. WRIGHT:

That's correct.

CHAIRMAN BEEDENBENDER:

Okay. All right. So we have that. I think we have at least one fact so far.

LEG. LOSQUADRO:

I'm sorry to interrupt, Mr. Chairman, but I need to clarify that.

CHAIRMAN BEEDENBENDER:

No problem. Legislator Kennedy real quick, and then Legislator Horsley has been waiting patiently.

LEG. KENNEDY:

Ben, there's two other things. The committed capacity, 60,000 of that is with Computer Associates now?

MR. WRIGHT:

Thirty thousand is with Computer Associates, and there's a factor of safety of 20,000 that we've set aside by regulation.

LEG. KENNEDY:

So you're talking about 50,000 at this point that's unused?

MR. WRIGHT:

Yes.

LEG. KENNEDY:

But it's only a 200,000 gallon plant at this point.

MR. WRIGHT:

It's a 400,000 gallon plant.

LEG. KENNEDY:

Well, it's a 400,000 plant of which about 200,000 gallons a day is running through there.

MR. WRIGHT:

August of last year we had 325,000.

LEG. KENNEDY:

It did go that high?

MR. WRIGHT:

Actual flow, yes.

LEG. KENNEDY:

What has it been recently?

MR. WRIGHT:

Anywhere 250 down -- 200 to 250.

LEG. KENNEDY:

Okay. One other issue, I guess, that I'm going to ask you to just speak to in the hypothetical. And this is anybody; Mr. Wright or anybody else. There is a contract in place for these two homeowners complexes to connect by and through Motor Parkway Associates. Is the cost equivalent to them to go through Motor Parkway Associates as opposed to if they could connect directly?

MR. WRIGHT:

Well, in the Springs Meadow's case, they still need a pumping station and force main, they still need to abandon their plant. The connection fee that's in law is \$30 per gallon per day, so that's probably

in the 900 to a million dollar range for that capacity.

LEG. KENNEDY:

Except they were on the hook eight years ago, so that might be \$15 a gallon.

MR. WRIGHT:

They never applied to us directly, I believe. It was always through Motor Parkway Associates. So that's a legal question.

CHAIRMAN BEEDENBENDER:

I believe -- I'm sorry. Legislator Kennedy, are you --

LEG. KENNEDY:

Well, I don't know that I got an answer from Mr. Wright as to whether or not if there was a direct connect from them to the plant for that excess capacity, if it would be the same cost as what's being represented now through Motor Parkway Associates.

CHAIRMAN BEEDENBENDER:

Didn't he just say that there is no excess capacity, it's all committed? I'll reiterate. Is all the -- there's not sufficient uncommitted capacity for both these places to hook up?

MR. WRIGHT:

No. Legislator Kennedy was taking the hypothetical route.

CHAIRMAN BEEDENBENDER:

Oh, okay. Then the hypothetical answer is hypothetical?

MR. WRIGHT:

Yes.

LEG. KENNEDY:

I still didn't get an answer, but that okay. I'll yield. I'll yield on the table thing and find out.

CHAIRMAN BEEDENBENDER:

Legislator Horsley has a question, and then I think -- Ms. Berkowitz, you were done, because I know you kind of got -- okay. You were done. All right. Legislator Horsley.

LEG. HORSLEY:

A hypothetical question on a hypothetical question, I like that. For the County Attorney, the hearing that the applicants need a SEQRA review at this late date, is that something that you agree? Do they need a SEQRA?

MS. SPAHR:

I believe there has to be SEQRA determination before a final action is taken.

LEG. HORSLEY:

And who would be the SEQRA determiner?

MS. SPAHR:

I would think that the Legislature has to make a determination before the final action.

MR. NOLAN:

Right. We normally wait for it -- for a recommendation from CEQ. And that's -- almost every resolution we do has a SEQRA determination, which is not in this particular resolution.

CHAIRMAN BEEDENBENDER:

Ma'am, could you speak to -- Mr. Wishod said the process was different, that the process -- that this would be -- you know, a departure from our normal process. Could you speak to that?

MS. SPAHR:

I only have about six or eight months experience with this, and it's the only one that I've handled. So, I'm sorry, I can't.

CHAIRMAN BEEDENBENDER:

Gail, do you know?

CHAIRMAN BEEDENBENDER:

Gail?

MS. LOLIS:

Gail Lolis, Deputy County Attorney. The issue came up today, and we discussed it with Jim Bagg. Jim thought that it did need a SEQRA review. We are looking into it. As I understand in the past, what

Mr. Wishod said was correct, that for the expansions, there had not been a SEQRA review. But now, since the issue just came up, we're looking into it to see if -- if that's the case.

LEG. HORSLEY:

So what you're saying is that your determination at this point is that you do not have a determination, though they had just been told that they need a SEQRA review through CEQ.

MS. LOLIS:

Mr. Bagg thinks that we do need one. We have not verified that by doing a legal review and seeing what was done in the past. So I can't say unequivocally that you need the SEQRA review.

MR. PIZZULLI:

May I offer an observation on that, Mr. Horsley?

LEG. HORSLEY:

Sure. Yeah.

MR. PIZZULLI:

I recognize I'm applicant's attorney and you don't look for counsel from me, but as Mr. Wishod did mention, this was a reapproval of an expansion that was previously approved by this Legislature on two or three occasions. I'd be curious to know if the original approvals also received a SEQRA determination.

MR. NOLAN:

I actually did ask Mr. Bagg that question, and he was unaware of any prior SEQRA review. So, you know --

MR. PIZZULLI:

But secondly, I may know the answer why. Because under the SEQRA Regulations, under 617.5, this might possibly be classified as a Type II Action, which if you know SEQRA means it's exempt from SEQRA, it's an expansion or rehabilitation -- it's an expansion or replacement of a structure in-kind, a rehabilitation.

MR. NOLAN:

That may be the ultimate determination, but, you know, we usually wait for CEQ to give us a recommendation on the proper classification.

CHAIRMAN BEEDENBENDER:

All right. In light of where we are right now, we have a whole bunch of issues in front us, and I'd

like to wrap this up, because I know that the Davis Park people really are in need of having a discussion too. Let me ask our counsel, what -- because there seems to be no clear statement. Now, I agree that we need CEQ, but I think the question is when is it supposed to happen? Is it supposed to happen before we do this, or is it supposed to happen when we do it at the Sewer Agency? So did I miss a clear statement of when that's supposed to happen?

MR. NOLAN:

It should be happening at this point. In our resolution, there should be a SEQRA determination made. The normal process is this resolution at some point should have gone to CEQ probably with an environmental assessment form. You know, they may say it's, you know, an unlisted negative dec, they may say it's a Type II, they may not require a full blown environmental impact statement, but we have to have that process before we approve the resolution now.

CHAIRMAN BEEDENBENDER:

Okay. With that, I know Legislator Losquadro wanted to speak.

LEG. HORSLEY:

So that means then that you have made that determination, George, that we don't need one from the County Attorney's Office?

MR. NOLAN:

Well, I don't want to say that about the County Attorney's Office. I'm just saying that my opinion --

LEG. HORSLEY:

That sounded like an opinion.

MR. NOLAN:

Well, you know, based on my conversation with Jim Bagg and the fact that we almost invariably in almost every resolution we approve include a SEQRA clause and there's none in here, and I spoke to Ben Wright, and he can find no indication if there was an environmental review on this, all those things tell me we'd be obliged to table this resolution until that's taken care of, because, you know --

LEG. HORSLEY:

Never mind, County Attorney.

CHAIRMAN BEEDENBENDER:

Legislator Losquadro and then we're going --

LEG. LOSQUADRO:

One thought on the same line of discussion. Believe me, I can sympathize with the folks who are going to be affected by this, because I just went through the tale end, only the past four and a half years or a ten-year takeover process for Tallmadge Woods Sewer District, which was just completed. And I know that there was a lot of frustration on both sides, and one of the things was that rules kept getting changed along the way.

And it seems though we have a situation here -- and I'm not the attorney of the bunch, I know we do have a few sitting up here -- but it seems as though we do have precedent of many instances in the County where we have approved the exact same things. And only -- I wrote this down, that the CEQ was only -- the SEQRA determination was only required by the connectees. So this seems to be different. And it seems like we're changing the rules as we go here. So I don't know --

MR. NOLAN:

I'm not sure that's the case, Legislator Losquadro. I was trying to find a similar resolution, and the one I find are, like, the outside hook-ups where an entity outside a sewer district hooks up. All those resolutions have a SEQRA determination in them. You know, I think it's very unusual to have a resolution before us where there's nothing with SEQRA and where there's apparently been no

environmental review. But, you know, I was going to --

CHAIRMAN BEEDENBENDER:

Go ahead, Legislator Losquadro.

LEG. LOSQUADRO:

On the same thought, because I want to move on to just another question in general that I had, but I think Mr. Wishod wanted to say something on that also.

MR. WISHOD:

Yeah, if I may. This project was previously approved with an increase of 600,000 gallons without any kind of a CEQ SEQRA determination. The District 11 County-owned plant was expanded by millions of gallons, it took many, many years. There was never CEQ SEQRA determination. The Parkland 14 plant was expanded by several million dollars (sic) with a large consortium of private developers. There was never any SEQRA review. The SEQRA review comes with the individual connectees. This is a two-phased project. You have to approve the expansion, and then anybody who wants to connect, before they can get formal approval from the agency has to go through the SEQRA process. The agency will not grant formal approval. The agency has never, before granting formal approval to the first step, the expansion itself, ever required a SEQRA review. And I heard about it for the first time when I walked in today. Thank you.

CHAIRMAN BEEDENBENDER:

Thank you, sir. Legislator Losquadro, you had one more, then I'm going to try to see if we can't --

LEG. LOSQUADRO:

Yeah. It was just a general question. Again, having gone through recently the one with Tallmadge Woods, and heard a little bit of a discussion, Legislator Kennedy was asking, you would construct the additional capacity and then the other individuals will tie in. When we talk about the rate that individual is going to be charged on an annual basis, what we call the SFE, the Single Family Equivalent, is Department of Public Works or our sewer folks the ones who -- because I worked with them on Tallmadge Woods one to set that SFE, how is that determined in this case that your building the additional capacity and vending out that capacity? Is that a different process here, or is that still done through DPW?

MR. HADDOCK:

Legislator Losquadro, Steve Haddock. Right now -- every sewer district is different. It goes by the operating and maintenance cost of the individual sewer district divided by the number of people in the district.

LEG. LOSQUADRO:

Exactly. I actually learned -- during that -- that was the first one I ever had to work on, so I learned a bit about the process. And I know that each one is different, that's why I'm just trying to figure out how this one would be determined.

MR. HADDOCK:

Well, right now, Sewer District Number 13 has certain operation and maintenance costs based on Single Family Equivalent, and it's going to be considerably less according to the estimate that were done for the new plant, because there's a different type of operation and this is a different type of plant. The existing plant that's in Windwatch Sewer District 13 now is the type of plant known as extended aeration. The process is going to be changed, and the rates per user are going to go down, the operation and maintenance cost. It's a much more efficient type of plant, in addition to which, when the number of users gets increased by the addition of Motor Parkway Associates, Holiday and everyone else, there's more people to spread the cost around. So that's why this is estimated to become a very cost effective O&M charge.

LEG. LOSQUADRO:

Thank you.

CHAIRMAN BEEDENBENDER:

Okay. At this point, the water is about as muddied as it possibly could be at this point. So here's what I'm going to suggest. And that's an unfortunate pun, thank you. Here's what I'm going to suggest. We don't have a clear answer on the question of whether the SEQRA is needed. It is also not clear to me that everybody has had an opportunity to see how much this is going to cost. So this is what I would like to happen; we'll table it, we're here in two weeks. I don't like tabling things for the sake of tabling them, however, I don't think we have enough information to discharge it or do anything else with it at this point. So let's -- I'm going to make a motion to table.

What I would like to have happen is the County Attorney, our Counsel, whomever else, get us an answer to the legal question about the SEQRA. Number two, what I would like is -- Legislator Kennedy, you know, this is your district and I will certainly never presume to take dominion over it, but I would like at least the homeowners -- because it appears to me today that we have more information than they do.

LEG. KENNEDY:

Mr. Chair, as a matter of fact, my thought was as soon as we conclude with this vote, which I presume is going to be a table, I'd like to go ahead and have a quick conversation with Mr. Pizzulli. I do know that -- I believe Mr. Hisiger, as a matter of fact Mr. Wishod had said, is scheduled to meet with you --

MR. WISHOD:

Well, he gave me a series of dates. We just agreed today whether -- - I haven't called Gary yet, but --

MR. PIZZULLI:

The meeting will be next three.

MR. WISHOD:

He's told me when he's available. It will be next week.

LEG. KENNEDY:

Okay. So by and through their Counsel, then there's going to be even some more folks who know what's going on besides me. So I'm going to go ahead and try to figure out something with Mr. Pizzulli and Mr. Wishod directly right now so that we will be able to answer as many questions as possible when we're back here in two weeks. I do think it wise, Mr. Chair, as far as the SEQRA issue goes, though, because having dealt with it many years ago as the Exec's liaison to CEQ, it was customary and routine for pretty much any action that we took on the Executive's side, as you well know from a former life, that you had SEQRA in place. So I think we would be, you know, somewhat exposed.

CHAIRMAN BEEDENBENDER:

Well, I'm going to pull out that quote where you said I was wise. But, Legislator Montano and then I think we can move on.

LEG. MONTANO:

Actually, the project is not in my district, although I do represent a large section the Village of Islandia and I did speak with the Mayor and I was prepared to support this, but in light of what has come up, I think it's evident that we need to table it for the two weeks to let Legislator Kennedy follow up on those discussions. I will vote to table.

I would like to be privy to that, because this does affect, even though not physically in my district, it basically is a block or two on the other side. The Village of Islandia, as I said earlier, does have a substantial part its village in my legislative -- so I think we need to work together on this. But

unfortunately, we are going to have to table it for the next two weeks, and hopefully we can answer some of those questions.

LEG. STERN:

Mr. Chair, this is, unfortunately, very reminiscent of projects that have come before us in the past that have been delayed over and over and over again because of a promise of meetings and more information. And I hope that when we come back in two weeks, that we will be able to make a policy here and not go back and forth with missed meetings and inaccurate information. I'm going to presume that when we meet back in two weeks that everybody on every side of this issue has had the opportunity, if they want to avail themselves of that opportunity, to have the accurate information so that we can move forward.

CHAIRMAN BEEDENBENDER:

And that is my expressed intention as well, because I do not like to table things ad infinitum and I would like to have some sort of resolution. So with that, we have a motion and a second on tabling?

MS. LOMORIELLO:

Who is the second?

CHAIRMAN BEEDENBENDER:

Did we have a second. Right.

LEG. KENNEDY:

Second.

CHAIRMAN BEEDENBENDER:

Legislator Kennedy seconding the tabling motion. All in favor? Opposed? Abstentions? Okay. IR 1627 is **TABLED (VOTE: 7-0-0-0)**.

Now we'll go to the agenda, and the first item on the agenda is Davis Park. And my apologies for the delay. Now, as I said earlier, we do have to table this for a public hearing, but in light of the fact that a CN most likely will be presented to us on Tuesday, I would like the committee to be prepared and have the opportunity to vet this as it would have under the normal circumstances. So Legislator Eddington has joined us, because this is -- affects the residents of his district. So even though he's not on the committee, Legislator Eddington is you'd like to bat lead-off here and then we'll get into the rest of the issues with BRO. I think that's the best way to go forward.

LEG. EDDINGTON:

Yes. This is a family operation that's been going on for 61 years. And they have been trying to comply with the regulations. They are, every day, meeting more of the requests. And as, I think Corky said, the owner Sherman said, they lost money last year and they're losing money as we speak every day. I happen to go over on the ferry a couple of times so far, and Mr. Sherman is driving. So they are trying to save money. They have had to cut back a little bit. I know that's not the best way to do it, but I'm afraid they're going to have pull on the dock and have no service if we don't come to some type of a helping hand immediately. So that's where we're at.

CHAIRMAN BEEDENBENDER:

All right. Mr. Sherman, if you could come up. What we're going to do first, BRO is going to -- Mr. Duffy is going to make a statement and give us some overview, and then I will give you the opportunity to add, subtract or reply to any of that, and then we'll have -- we will continue with our discussion. So actually, you can sit at the table if you'd like, you don't have to stand the whole time.

LEG. EDDINGTON:

Could we have their accountant come up too?

CHAIRMAN BEEDENBENDER:

Sure. Mr. Sherman, you could bring whoever you'd like up to the table with you. So, BRO, if you would be so kind as to give us the overview.

MR. DUFFY:

Yes.

CHAIRMAN BEEDENBENDER:

Thank you.

MR. DUFFY:

Yes. We originally did our report on June 18th, and we've issued a supplemental letter dated today, which describes some further information. To make a couple points, the last actual audited financial information we have is from 2006. At that point, the company had an approximate \$10,000 pretax loss. For 2007, the -- I've spoken with the accountant today, they have not yet finished their auditing of those financial statements, but the projection they gave us was \$15,900.

What the company is discussing or talking about is that in 2008, they're projecting that there will be loss of approximately \$170,000 assuming no rate relief is granted. Davis Park Ferry has an unusual relationship and history going back with the Legislature. Prior to 2005 when I did the review, the last time that they were looked at before that was 1987 when they were given COLA provision in their license.

Unfortunately, they did not understand that in order to exercise the COLA they first had to notify the Clerk of the Legislature, which during the period 1988 through 1994, they had raised their rates five times during that period. What had happened during this time is that there had been a problem with one of the ferries where one of the owners allegedly had stolen a great deal of money and cash controls became very important to the Legislature.

What happened when I looked at Davis Park Ferry in 2005, I had some concerns. The rate relief that they received in 2005, was conditioned upon them addressing the problems that we had seen in 2005. Basically, those problems included a payment of \$332,000 to a brother who was no longer with the company. During the meeting that we had -- and I'll go through these in order, because I think all are important, the Legislature should be aware of its facts before it makes any decision.

CHAIRMAN BEEDENBENDER:

And when you refer to the meeting, this is a meeting between Legislator Eddington, BRO, Davis Park Ferry and our Counsel, George Nolan.

MR. DUFFY:

Yes. As described in the memo that we issued today. Okay. During that meeting, Mr. Sherman indicated that this information concerned his -- this problem grows out of his father's estate. During the meeting I requested whether or not the estate was still ongoing, which Mr. Sherman said it was. I found it unusual that an estate would go on for 26 years. And I checked in Surrogates Court and found out that the estate had been settled in 1996 and that vouchers and releases had been filed by the three brothers who were named as the Executors of the Estate and also as residuary ligates.

We still have a concern concerning the \$332,000. And what we looked for and what we've tried to talk about is that all ferries should be treated on the same standard. We have in the past -- and this is for the Legislature to decide, our reports are merely advisory and the Legislature can take whatever action it deems appropriate. Back in 1997, we had a similar situation with Sayville Ferry. At that time, we found that the company had not implemented the cash controls that it had received rate relief on in 1994 and also that the principle of the company had taken a \$500,000 loan from the company.

At that time, the Legislature required that the cash controls be established and that the individual sign a note in which he agreed to pay back the funds lent to himself over a five year period. Our

concern with the \$332,000 is that if that money was not paid to the brother, that money would be with the company and would be able to be used by the company.

The second issue that we raised and we discussed was that does the money paid relate only to his shares in the ferry. We had been supplied by the company, which we discussed in our June 18th report, that the individual is looking for a global settlement. We're not quite sure now as to what this relates to. And our third concern is that if ferry company revenues are used, the result is that the interest of the two remaining brothers are increased; instead of being third-owners, they're now half-owners. That's a point for the Legislature to consider.

The other issues that we discussed is we asked for the execution of a number of agreements. Now, I will point out that that the resolution that had passed requiring this occurred in March of 2005. The company has submitted a number of agreements. To fulfill those, they've submitted an agreement with Davis Park Marine Services for the rental of the two boats. The agreement is dated in 1980 -- in 2008. They submitted a copy of an office agreement, again, dated in 2008.

The company has attempted at this point to address these issues, but we would have felt a lot more comfortable if these agreements were dated 2007, 2006 and we could see how and what has happened. We had raised questions about -- in our report that we wanted copies with the lease with the Town of Brookhaven and also the agreement with the National Park Service. The reason we asked for this is that is a ferry license carries with it, because it's granted under the Highway Law and a ferry is considered a continuation of the highway, there's the ability, there's a condemnation if there's proper giving of notice to those people who ferry wishes to use as landing sites.

The company supplied us -- well, basically, we have received a copy of the lease from one of the homeowners, which is a continuation of an existing lease. When we went through cash summaries that the accountant provided us, we found that there were 3314 -- this was in 2006, what we refer to as deadheads. These are fares that basically are not collected, that the person rides free. We had spoken about with the accountants, and the accountant had provided us with, I guess, a page from the full lease, because the lease that we were given was an update of an existing lease just changing the rental payments, the insurance requirements, but did not contain all terms.

What our concern is, and we've raised this question with, I guess, the Fire Island Ferry with their Village Book Discounts, whereas part of a lease agreement, there is a consideration in rides. And basically, under this agreement, it says that for the purpose of this lease, Town of Brookhaven employees shall be deemed to include elected officials, full and part time employees, annual seasonal employees and that they shall be entitled to use of the ferry service without charge to either the employee, the lessor or the Town of Brookhaven. That, at this point, would be a concern that we would look into.

We also had raised the question about the National Park Service, which we saw that there were 523 deadheads, which basically -- when I spoke with the National Park Service, they were not aware of any agreement in their lease which provided for free passage. Mr. Sherman has indicated to me before the meeting that there's -- embedded in the lease agreement is that they're entitled to a half fare. I don't have that shown on their cash reconciliation.

The third thing we found is that we saw on the reconciliation there were 988 non-pays. The total of all these is 4825 rides in 2006 for which as far as we can see there was no payment. If you assume that the rate was the rate that they had in affect for a one way of \$7, you're talking about approximately \$34,000 in lost revenue. The other issue we talked about was cash control. As we say in our summary, since we have been dealing with the account, there have been steps in the right discretion. When I went to the company, I was unable to come to the financial amount, I was off by \$44,000 because I had not been given all the information.

The accountant has gone through, and for 2006, she has had a reconciliation of the cash to the bank to the financial statements. There are still some gaps that we see. Things are better, but it's a

question for the Legislature. If you're asking is this the same standard we would hold all the other ferries to, at this point, we say there needs to be more refinement and more work.

The final point I want to make is that after the 2005 rate increase, the company surcharged previously purchased tickets. It's our position that we've always taken that once a ticket is sold, you know, there should be an expiration date. We would recommend that if the Legislature determined to give the company an increase, there should no surcharging of previously issues tickets. Those are the points.

CHAIRMAN BEEDENBENDER:

All right. I know that was lengthy, so you probably have numerous things to come back -- to state. So if you could do that and getting to everything you have, but in as brief a period as you could, that would be both needed and greatly appreciated. So, Mr. Sherman.

MR. SHERMAN:

Just getting this as I walked into the thing today. I really haven't had a chance to read it as carefully as I should have. But starting out with the payments to my brother Fred, the \$332,000, everything has been paid to him for shares, not for anything else as suggested in this -- in this paragraph. The next point was what here? My father's estate. I think Mr. Duffy misunderstood what I said to him at our July 8th meeting. We talked about mutually-owned properties between my brother Fred and my brother Matthew, and I had told him that some of the properties were still in my parents name, not because the estate had not been settled, just that we had not changed them other. So I never -- there was a misunderstanding as to my father's estate, whether it was settled or not. And, you know, after 26 years, of course it's settled.

Davis Park Marine Service. He states here that it's a sister corporation. I'm not sure what you consider a sister corporation, but it has different stockholders, it had a different Board of Directors than Davis Park Ferry does. He is saying that we should have audited statements. I'm saying that they are not brother-sister corporations. They have some common ownership, but they're not entirely owned by one or the other.

The property on West Avenue, which we use as our repair shop has been in the family for 40, 50 years. Davis Park Ferry for those 40 or 50 years has only paid the taxes and the maintenance on the building and nothing else. It's never -- no money has ever been paid to us personally over those 40 years. It's only been paid to maintain the property through taxes and, you know, maintenance. The lease was kind of difficult, because no money is going to be -- you know, no money has exchanged hands in all of those years. The lease between the Davis Park Marine Service and the Nicolette and Marquette, no money has come to us through the ferry company for those boats. Every penny has been paid directly to the bank for the mortgages through the ferry company. We've never taken any money other than -- we've never taken any money other than our salaries out of the company ever since I've been there.

Down to the National Park Service. The lease is one part of our concessions contract. Within the concessions contract, there's an operating plan, and the operating plan states that the National Park Service gets 50% off their fares. The Town the Brookhaven, they ride free, that's part of our -- part of our lease. And if we didn't have that lease, we wouldn't be running. We lease -- we lease the docks at the beach and we lease the property we run from.

The deadheads, such as relatives, employees, it's our policy and always has been our policy that an employee on their day off, they ride the boat free and they can being a guest. My relatives don't pay, naturally. And that accounts for that -- not the non-pay, non-pay represents all those different categories of people that I just don't charge, because, you know, I'm not going to charge my wife to go to the beach, I'm not going to charge my daughter to go to the beach. And employees, that's part of the benefits from the company, to allow them to use the ferry free of charge and take a guest with them.

The surcharge, no idea. I thought I was allowed to charge \$7 so I charged \$7. And for all the tickets -- you know, people were buying groups of tickets thinking they were going to get away with not paying the extra fare, so we decided that a surcharge -- it's not really a surcharge, it's just the difference between the credit on the ticket and they just pay the difference.

He also has in here the 60-trip card, it's -- the amount that he states is inaccurate it's really 293.40, which is in line with the exact same price per fare -- per trip for the 40-trip card. And we only did this as a request from the -- from the homeowners association. And we kept it within the same rate structure as the 40-trip card and just sold them a card and a half as opposed to them buying two cards. They didn't want to spend that kind of money, so we said, okay, we'll sell you a card and a half, and that should be sufficient keeping within our current rate structure. And I guess that's it.

CHAIRMAN BEEDENBENDER:

There was one other -- Legislator Eddington, did you have anything that you wanted to add since this is --

LEG. EDDINGTON:

As you can see, there's been some lack of communication or misunderstandings. And what I'm looking to do is rather than keep talking about the past is looking now and into the future. And what I keep hearing about the present now is that they are making -- the company is making every effort to comply. You know, we've had a couple of meetings where we're clarifying information. So what I want to make sure is that that continues and that we're able to keep them in business while we're continuing this communication.

It may not have been good in the past. I wasn't here, but I'm here now. And I'm here to affirm that we are going to continue to communicate. I know the owners. They're working hard, and they are to be communicating. And Ms. LaPonte, we're going to work together to make sure that the Budget Review gets everything they need. But my major concern is the homeowners. When you get a group of people -- and I met with -- my office was standing room only -- asking for a fare increase, I mean, that -- who asks to pay more? So there's a definite need. I think we can iron out all these problems, but we've got to keep this company going for another 61 years. So that's what I'm asking us to do.

CHAIRMAN BEEDENBENDER:

Okay. The one question that I had that I had not heard brought up, this morning, I got a memo from BRO, and it had to do with an undertaking. And what I'm going to do is I'm going to ask our Counsel to speak about it, because it has to do with New York State Law. And there's just one thing that I want to clear up, because this is another thing that was left out there.

MR. DUFFY:

Excuse me. Mr. Sherman, before the meeting, gave me a copy of a letter that he had gotten from his insurance company. I had given him a copy of a letter from Renee Ortiz of the Clerk's Office. I had gone and checked the file, I didn't find an undertaking. The Clerk then double checked on me. Mr. Sherman, who supplied us with the letter, where he's requesting from his loan agency insurance a copy of your bond from Hartford will be forwarded to you upon receipt. It generally takes between three and five days to retrieve the policy from the company archives. He's working on that.

CHAIRMAN BEEDENBENDER:

Okay. So then it appears that that is done and we just need the documentation for it. Okay. Well, then three or five days, we should probably be able to know that on Tuesday, I would hope. In a week? Okay. Well, then if that's not an issue, then I don't have -- I don't believe there's anything else to discuss. We'll have to table this for a public hearing, because, like I said -- but I really wanted the committee to have an opportunity to discuss it, because I'm sure the Legislature as a whole would appreciate not having to have this discussion on Tuesday, since we will have lengthy discussions -- well, actually, maybe not -- on everything else. So I thank you for coming. If there's anything else, you can contact my office. So I will make a motion to table for public hearing.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern. All in favor? Opposed? Abstentions? **TABLED (VOTE: 6-0-0-1 - Not Present; Legis. Montano).**

LEG. EDDINGTON:

Thank you, Mr. Chairman, for your consideration.

CHAIRMAN BEEDENBENDER:

No problem, Jack. Fire Island Ferries, there's just a couple down here, so we're just going to run through them and we'll get right to you, Mr. Mooney.

1358, Adopting Local Law No. 2008, A Local Law to reduce the emission of pollutants from the County's diesel-fueled motor vehicles. (Cooper)

This needs to be tabled for a public hearing. I'll make the motion.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern. All in favor? Opposed? Abstentions? IR 1358 is **TABLED (VOTE: 6-0-0-1 - Not Present; Legis. Montano).**

1413, Amending the 2008 Capital Budget and Program and appropriating funds in connection with planting of trees and shrubs at various locations (CP 5902). (Co. Exec.)

Do I have a motion?

LEG. STERN:

Motion.

CHAIRMAN BEEDENBENDER:

We have a motion by Legislator Stern.

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Horsley to approve. Legislator Romaine.

LEG. ROMAINE:

Yes. Earlier today, I heard about the dire predictions of the financial condition of the County. I heard about how we're facing a multi-million dollar deficit and probably well into the future. We are now being asked to spend \$50,000 of money to plant shrubs and trees. And I think there's incongruous with that request considering in the light of the dire predictions that we heard earlier. And then to be accused as a Legislator, as 18 of us have by the Executive, as being big spenders, as budget busters -- these are terms he uses for all 18 of us, by the way, when we override his vetoes -- this is the height of chutzpah.

CHAIRMAN BEEDENBENDER:

I like that, height of chutzpah. Legislator Losquadro. The best comments come out of this

committee.

LEG. LOSQUADRO:

I just wanted to also point out that this is a \$50,000 bond. And we've had many discussions over the past several years about the amount of -- the size of projects that we should be bonding. And I just wholeheartedly disagree with bonding such a small amount. I know that we do not have pay-as-you-go money, but then we should forego doing projects of this nature, if that is going to be the policy of this body and this County. So I disagree with this, and I make a motion to table.

LEG. ROMAINE:

Second.

CHAIRMAN BEEDENBENDER:

All right. Well, we have a motion and a second for a tabling, and that takes precedence. On the tabling motion, all in favor? Opposed? Abstentions? All right. The motion is **TABLED (VOTE: 6-0-0-1 - Not Present; Legis. Montano)**.

1460, To implement Sunday bus service for S92 Bus Route. (Romaine)

Legislator Romaine.

LEG. ROMAINE:

Again, it's a question of priorities. I understand the expense involved, but I also understand the benefit at a time when gas prices are going well over \$4. People can't afford to use their own transportation and are looking for public transportation. We do not have any bus service in this County of one and a half million people that run anywhere at any time on a Sunday. And yet, there are people that have needs on Sunday, it's their day off, go to religious services, go shopping. And there are people that work, because this is an economy that's busy seven days a week. And yet, there is no public bus service on Sunday. Not only would this help with our air pollution problem, and we do have air pollution problems in Suffolk County, but this would also create an opportunity for us to be a little bit energy independent and allow people to use public transportation. Motion to approve.

CHAIRMAN BEEDENBENDER:

All right. I was going to say, I didn't hear the motion in there. All right. We have a motion to approve. I'm going to make a motion to table.

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Horsley. Tabling motion takes precedence. Is there any comments on the motion? Seeing none, all in favor? Opposed?

LEG. ROMAINE:

Opposed.

LEG. LOSQUADRO:

Opposed.

LEG. KENNEDY:

Opposed.

CHAIRMAN BEEDENBENDER:

Legislator Romaine is opposed. Legislator Kennedy and Legislator Losquadro are opposed to tabling.

So the motion to table fails. Do we have a motion to approve -- do we have a second to the motion to approve. We have a second on the motion to approve by Legislator Losquadro. Are there any comments on the motion. All in favor? The three gentlemen to my right are in favor. All opposed? All opposed? Myself, Legislator Stern and Legislator Horsley. So the motion fails.

FAILS (VOTE: 3-3-0-1 - Opposed; Legis. Beedenbender, Stern, Horsley - Not present; Legis. Montano).

LEG. ROMAINE:

Thank you, Mr. Chairman. I understand Legal Counsel is not available at this time, but I'm sure he's listening in the back. So, George, if you're listening, please resubmit this resolution under my name. Thank you. This will be back again.

CHAIRMAN BEEDENBENDER:

I have no doubt.

1505, Authorization of alteration of rates for Fire Island Ferries, Incorporated. (Pres. Off.)

This, again, has to be tabled for a public hearing. But I would imagine this would may -- we may find ourselves in a similar situation to Davis Park. So hopefully what we can do in an abbreviated situation from the last time, Mr. Duffy, can you give us your report on Fire Island Ferries, since we may very well find this in front of us on Tuesday? And I know that Mr. Mooney from Fire Island Ferries -- if you'd like to come up and sit at the table as well. And if there's anybody you'd like to bring with you. Mr. Duffy, if you would, please.

MR. DUFFY:

I think the easiest thing to do is just to read, I guess, the third paragraph of our cover letter. The report includes similar findings which highlights -- the report discusses the history of the company to provide a perspective on Legislative policy making process. Although the price of fuel continues to be a concern, in 2007, the company had -- and I emphasize this is a pre-tax profit -- of \$1,049,846. For the Legislature to grant relief under such circumstances would be, in our opinion, premature. It is true that the price of diesel has more than doubled, but the Legislature has a fiduciary -- has a fiduciary -- should not grant rate relief until there's a demonstrated need.

With Fire Island Ferries having more than a million in profit -- in pretax profit, we don't really think the need has been demonstrated. Additionally, which I didn't mention with Davis Park Ferry, but it also applies, there is legislation pending, which was passed in the Senate and the Assembly, which would make ferry companies exempt from New York State sales tax assuming Governor Paterson signs this.

CHAIRMAN BEEDENBENDER:

For the purchase of boats.

MR. DUFFY:

No. The purchase of fuel, boats, supplies and provisions, which in the -- there was no fiscal impact statement attached to the legislation, but required the ferry companies to report to the Legislative bodies within 90 days after the effective date of the legislation, which would be September 1st, 2008. As far as I can determine or find out, this would only affect the ferries in Suffolk County, because they're monitored by the County. There are other ferries that exist such as Cross Sound, they're interstate. There are ferries, and Mr. Mooney can correct me, we talked about it when I was at his office -- we couldn't think of any others. New York Waterways, which services the City, receives similar type of legislation after 9/11. And they're the only ferries that have this.

What our recommendation was is that we said that the only fare we felt that should be changed at this point is the village bulk discount, which if you remember from last year when the company was here, we said should be set at \$200. And we, again, make that recommendation. What we

suggested for the Legislature, and again, our opinion is only advisory, that the Legislature wait, because the resolution will not become stale until December, and the company would submit their estimate after Labor Day, because by Labor Day, the ferry has received approximately 95% of its revenue, because its fiscal year ends the end of September. And by the time the Legislature is ready to act, we would know whether or not the Governor's legislation has passed and what type of affect this would also have. And again, the State legislation also applies to Davis Park Ferry.

CHAIRMAN BEEDENBENDER:

Okay. Thank you, Mr. Duffy. Mr. Mooney, is there anything you would like to add, anything that you didn't get to add before that you'd like to say?

MR. MOONEY:

Kevin and I have had lengthy discussions regarding his Budget Review findings. I think to start with, you know, one of the things that we measure ourselves on is return on investment. I think it's an industry standard. The Budget Review Office doesn't accept or doesn't recognize that as a standard that they will apply. Over the course of the last five years, as I said earlier, we had an average of 3.1% return. And two years ago, we had a loss of \$250,000, and the next year we spent filling in that hole. And then last year, the rate increase we had from two years ago actually kicked in. It was not unlike the circumstances where we have now where we missed the season to get the rate increase. And as Kevin said, you know, by Labor Day, you know, we're just about done with our -- with our season.

You know, the Budget Review Office's view of pretax dollars, I -- you know, I wish could measure myself on pretax dollars, it would be pretty good. But nonetheless, you know, we did have a good year last year, and I think it's being held against us that we finally had a good season with perfect weather, good ridership and a fare that was -- that was in place at the right time. And I feel that that's being held against us. And we know what the circumstances are with the fuel at this point. And, you know, we're projecting a loss of \$187,000, and that's if the weather holds up for us.

So, you know, we can -- you know, if I have high fuel prices and high ridership, that's one thing. If I have high fuel prices and low ridership, I'll be in the same position as Davis Park Ferry. And, you know, we don't like being there. And we're here now to try and see if we can get an impact to anything that we can -- we can this year.

CHAIRMAN BEEDENBENDER:

Okay. Well, the public hearing is on Tuesday. We will hold it. I don't know if you've made the same reaching out that the individuals from Davis Park has to the County Executive's Office, but that's certainly in your power to do if there's a pressing need that you think we should pass this on Tuesday. The one thing that I would add, though, however, is that in my view, at least, as a Legislator, of our oversight over the ferries, I think, you know, it is important that we get all this information, and BRO does a fantastic job getting all this information for us. But in my personal view, my role here is to make sure that whatever you're charging is not based on false information, and I'm not saying it is -- any ferry -- and that it's not overly burdensome to the population. Those are the two things that are of most concern to me.

For me personally, whether -- if you profited last year, that's less of a concern to me than what's going to happen next year. So I know you said you kind of feel like that's held against you, but for me personally, I just want to make sure that the rate you're charging is a rate that the public can afford and is going to allow you to stay in business, because we need these ferries to stay in business. So that's really the only two things. I think I heard a voice over here. Legislator Losquadro.

LEG. LOSQUADRO:

Quick question to Budget Review. When you read that portion of the report, you stated that that was from 2007, correct?

MR. DUFFY:

Yes.

LEG. LOSQUADRO:

Obviously, price of fuel has increased significantly since 2007.

MR. DUFFY:

Well, how we look at a rate increase is that the profitability the company makes equals rates times ridership less expenses. Yes --

LEG. LOSQUADRO:

So less expenses, the expenses would go up because the price of the fuel has increased since that report was prepared, correct? So that portion of the equation would change.

MR. DUFFY:

Yes. If it doubled the -- basically, in their cost estimates, the company was doubling the cost of fuel from what was paid in 2007. What we're saying -- and both Mr. Mooney and I had quite a long discussion about my word -- use of the word premature. What we were saying is that here we are in August, that the company's fiscal year ends September 30, all -- you will know by after Labor Day what the year was like. We said there's a wild card with the State legislation, that this may have significant affect on what the company's expense may be in 2009.

Of you look at this -- we looked at this as a rate request for 2009, not as 2008, because we figured by the time this goes into affect, assuming there's Certificate of Necessity issued on August 5th, after the public hearing is closed, then basically, the Mooneys and I would back here, I guess, the 12th to discuss the report, and then the Legislature would vote it out of committee on -- a week later, that Tuesday, I think it's the 19th, not certain, and then the County Executive would have 15 days whether to sign it or veto it or just let go into affect.

And since -- I would say the record on ferry rate increases being signed is zero, the ones going into affect by the passage of 15 days has been all of the others. So now, we're talking about we're past Labor Day. So how we looked at this is that you get the information, you see what the actual costs were in '08, you see what happens with the State legislation, and then you act. Yeah, the price of fuel may have skyrocketed, but if the State legislation is signed by the Governor, there may be a substantial decrease in 2009.

And we -- I know the company did do very well in 2007, and, yes, the cost went up, and, yes, everything was perfect in 2007. But 2008 hasn't been that bad. But I'm not predicting it will be, because if Labor Day washes out, that would be a big loss for the company or if the weekends are bad. So what we're saying is look at what you have, it's not going to have an affect in '08 anyway, and --

CHAIRMAN BEEDENBENDER:

What's the time to implement this? Because you had said you would pass rates and then two years later -- if we pass -- if we pass the increase of rate, let's say, in October, is that sufficient time that by the time gear up they will be in place? I mean, is there something -- is there something in the way?

MR. DUFFY:

What the company -- if I could? What the company is concerned about is the village bulk discounts because of January 1st -- and this, if you've read our reports, we've objected to them, because they're too deeply a discounted ticket, especially at Ocean Beach. And as long as the company has their rate in place by January 2nd, the villages are obligated to use the new cost. So that's -- if you --

CHAIRMAN BEEDENBENDER:

That's a hard deadline for you. But the difference between August and September or September and October is not so much, but January is an absolute deadline for you.

MR. MOONEY:

Correct.

CHAIRMAN BEEDENBENDER:

Okay. We're going to be back here in two weeks, and if --

MR. MOONEY:

Well, here's the one thing I said to Kevin. I said if we do lose money in '08, is the County going to make up the difference. And the answer to that is no. I asked Kevin for a check, and he's just not going to give it to me. So, you know, that's where we're held at. You know, my -- this is Ed Mooney sitting next to me. He's been doing this since 1948. And these are unprecedented times, as I said earlier.

You know, we're -- you know, we're not -- we're right there with the Shermans. You know, do we start cutting service back, do we start pulling back on things that the riding public has grown to expect over the course of time? And, you know, we're going to do that anyway. You know, we've slowed our boats down, we've consolidated some trips. You know, I was saying to Kevin, you know, it used to be that when you flew 20 years ago you always had an empty seat between you, you know, on the airlines, and those are gone now. And our boats are more crowded. We've reduced the number of trips that we're making. So we're making efforts on our end to try to mitigate this fuel increase as much as we can. However, there's just so much that we can do, and the prices keep going up faster than -- you know, than we which would like. And, you know, the boats take fuel.

CHAIRMAN BEEDENBENDER:

And the process takes a while.

MR. MOONEY:

And, you know, we started in may with this. And, you know, that's a whole other discussion. So, you know, that's a story for another day. And I'd like to talk to you about that at some other time. But when -- you know, if we can have an impact, in just speaking with Kevin earlier, I didn't realize that, you know, there's a new procedure in place with the, you know, County Executive's Office for the CN. You know, I guess it's preeminent as opposed to post. So we can -- we need to get that in advance of Tuesday's meeting to come to you.

CHAIRMAN BEEDENBENDER:

That's a policy that always been in place. It's just -- I know that Legislator Eddington was speaking with the County Executive as well as the Davis Park people. And since they are talking about a similar situation, I just wanted you to be apprised that if you would like something like that, you should speak to the County Executive's representatives and make whatever case you think you need to and they'll make the determination if they have to.

MR. MOONEY:

I will make every effort to do that and --

CHAIRMAN BEEDENBENDER:

There's some of them right behind you too.

MR. MOONEY:

We'll see how we -- you know, if we can make that happen.

CHAIRMAN BEEDENBENDER:

All right. Well, barring any other questions, we have a motion -- well, I'll make a motion to table for the public hearing, seconded by Legislator Stern. All in favor? Opposed? Abstentions? That is **TABLED (VOTE: 6-0-0-1 - Not Present; Legis. Montano)**.

All right. Moving rapidly, hopefully. 1536. I'm not going to speak rapidly, Barbara and to the Stenographer.

1536, Appropriating funds in connection with construction of sidewalks on various County roads (CP 5497). (Schneiderman)

I'm going to make a motion to table, because I don't believe this project is ready yet. And that was the information we had last time. Do I have -- seconded by Legislator Kennedy. All in favor? Opposed? Abstentions? IR 1536 is **TABLED (VOTE: 6-0-0-1 - Not Present; Legis. Montano)**.

1582, Establishing a Pharmaceutical Disposal Program in Suffolk County. (Stern)

LEG. STERN:

Motion to table.

CHAIRMAN BEEDENBENDER:

Motion to table by Legislator Stern, I'll second. All in favor? Opposed? Abstentions? **TABLED (VOTE: 6-0-0-1 - Not Present; Legis. Montano)**.

1595, Amending the 2008 Capital Budget and Program and appropriating funds in connection with strengthening and improving County roads (CP 5014). (Co. Exec.)

Motion to approve by Legislator Losquadro, I will second the motion. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 6-0-0-1 - Not Present; Legis. Montano)**.

1601, Amending the 2008 Capital Budget and Program and appropriating funds in connection with the County share for participation in the Transportation Planning Study of the Hauppauge Industrial Park (CP 5653). (Co. Exec)

LEG. KENNEDY:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Motion to approve by Legislator Kennedy.

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Horsley. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 6-0-0-1 - Not Present; Legis. Montano)**.

1628, Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 3 - Southwest with the owner of 110 Sand Company (HU-1040). (Co. Exec.)

I will make a motion to approve.

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Horsley. On the motion, Legislator Romaine.

LEG. ROMAINE:

Just a quick question. I keep on seeing all these connections to Southwest. How much capacity do they have left, which, I guess, is a question, because there's several resolutions; this packet, the next packet for connections that are coming down the pike. And I'm saying, wow, did they find additional capacity.

CHAIRMAN BEEDENBENDER:

Well, they discussed this at the Sewer Agency. But, Mr. Wright, you are the expert.

MR. WRIGHT:

Some time ago, we were able to get approval from New York State DEC to use the 5% factor of safety at Bergen Point, which is 1.5 million gallons a day because we have entered into the process of expanding Bergen Point by the 5 million gallons per day. So that one --

LEG. ROMAINE:

How long is that process going to take to expand Bergen Point?

MR. WRIGHT:

The funding is in 2010, and we probably can expect a two year construction period.

LEG. ROMAINE:

So you're not going to see any improved capacity really until 2012, 2013.

MR. WRIGHT:

Correct. That's probably the right schedule.

LEG. ROMAINE:

And meanwhile, we're expanding capacity. Will that strain the plant? Will that put extra burden on the plant?

MR. WRIGHT:

No, it hasn't. That's something that we evaluate when the applications come in.

LEG. ROMAINE:

Okay. It just seems that we're getting a lot of applications for hook-up for Southwest Sewer District from people outside the Southwest Sewer District.

MR. WRIGHT:

Even this one, in fact, is based on development of a new cell in this construction and landfill, which won't be constructed and utilized for a while.

LEG. ROMAINE:

Thank you, sir.

LEG. KENNEDY:

And over the next two weeks with SD 13, will we have that same opportunity with Spring Meadow once we get the expansion agreement inked with Motor Parkway Associates?

MR. WRIGHT:

We made a commitment with both those developments that once the construction has been initiated, you know, we would take gamble basically and let them hook up, because we know at some point in the future the plant is going to be expanded.

LEG. KENNEDY:

And based on our conversation earlier, I guess, there is a total of 50,000 unused including that 5% cushion which will accommodate both of those residential complexes.

MR. WRIGHT:

Well, I think you need 65,000 for both. But the Townhouse North, that has to go through care matrix pumping station that has to be upgraded. So that may be more difficult and less timely than Spring Meadows.

LEG. KENNEDY:

But that 30,000 coming out of Spring Meadow is pretty much a straight run.

MR. WRIGHT:

Yes.

LEG. KENNEDY:

Okay. Thank you.

CHAIRMAN BEEDENBENDER:

Okay. Do we have a motion and a second, Barbara?

MS. LOMORIELLO:

Yes.

CHAIRMAN BEEDENBENDER:

All right. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

1629, Authorizing the execution of an agreement by the Administrative Head of Suffolk County Sewer District No. 3 - Southwest with Duryea Residential Development(HU-1521). (Co. Exec.)

I'll make the motion to approve.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Second by Legislator Stern.

LEG. KENNEDY:

On the motion.

CHAIRMAN BEEDENBENDER:

Legislator Kennedy.

LEG. KENNEDY:

Quick one here. Why it is \$15 per gallon? Is there a note that I see here that they're going at the old rate?

MR. WRIGHT:

Yes. When the resolution in, I guess, November of '06 was adopted, it grandfathered projects that have formal or conceptual approval before that date. And this does predate that resolution.

LEG. KENNEDY:

And at that time we didn't have that, what is it, one year or two year duration?

MR. WRIGHT:

No, we didn't. Two years.

LEG. KENNEDY:

Two year duration? Okay. All right.

CHAIRMAN BEEDENBENDER:

All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

1637, Amending the 2008 Capital Budget and Program by accepting and appropriating funds in the amount of \$25,000 from KeySpan Corp. in connection with the design and installation of a solar photovoltaic system at Suffolk County Environmental and Interpretive Center at the Historic Scully Estate (CP 7512). (Co. Exec.)

LEG. HORSLEY:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Motion to approve by Legislator Horsley, seconded by Legislator Stern. Legislator Romaine.

LEG. ROMAINE:

Quick question. Obviously a very noble goal, but why are we amending the Capital Budget and not the Operating Budget? Since this is a grant that we're getting and it's fully funded by KeySpan and we're not spending any money, why would we not be -- - this is -- you know, why would not be amending the Operating Budget?

CHAIRMAN BEEDENBENDER:

I'm actually -- the note that I have says that we're getting 25,000 from KeySpan and the County is putting up 75.

LEG. ROMAINE:

Oh, okay. That explains it. I didn't have that.

CHAIRMAN BEEDENBENDER:

Is that correct, Tom?

MR. LAGUARDIA:

Yes.

LEG. ROMAINE:

Okay. Thank you.

CHAIRMAN BEEDENBENDER:

All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

1640, Amending Resolution No. 859-2007, which appropriated funds in connection with the County share for participation in the reconstruction of CR 57, Bay Shore Road, from NYS Rte. 27 to NYS Rte. 231, Towns of Babylon and Islip (CP 5523). (Co. Exec.)

LEG. STERN:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Motion to approve by Legislator Stern, seconded by Legislator Horsley. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

1646, Authorizing transfer of two (2) surplus County Laserjet printers to Every Child's Dream. (Lindsay)

I'll make a motion, seconded by Legislator Stern. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

1648, Authorizing transfer of one (1) surplus County computer, two (2) surplus County monitors and two (2) surplus County printers to Splashes of Hope. (D'Amaro)

I'll make -- motion by Legislator Stern, I'll second. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

1649, Authorizing transfer of two (2) surplus County laptops to Nassau/Suffolk Hispanic Task Force, Inc. (Montano)

I'll make the motion, seconded by Legislator Stern. All in favor? Opposed? Abstentions? **APPROVED (VOTE: 5-0-0-2 - Not present; Legis. Montano and Losquadro).**

With no other business, we are now adjourned.

(*THE MEETING WAS ADJOURNED AT 4:21 P.M. *)

{ } DENOTES BEING SPELLED PHONETICALLY