

PUBLIC WORKS & TRANSPORTATION COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE
MINUTES

A regular meeting of the Public Works & Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on June 2, 2009.

MEMBERS PRESENT:

Leg. Brian Beedenbender, Chairperson
Leg. Steven H. Stern, Vice Chair
Leg. Wayne R. Horsley
Leg. Daniel P. Losquadro
Leg. Edward P. Romaine

ALSO IN ATTENDANCE:

George Nolan, Counsel to the Legislature
Barbara LoMoriello, Deputy Clerk
Gail Vizzini, Director of Budget Review Office
Robert Lipp, Deputy Director of Budget Review Office
Debra Alloncius, Legislative Director, AME
Paul Perillie, Aide to Majority Leader
Linda Bay, Aide to Minority Leader
Gil Anderson, Commissioner, Suffolk County Department of Public Works
Tom Laguardia, Chief Deputy Commissioner of Department of Public Works
Bill Hillman, Chief Engineer, Department of Public Works
Ben Wright, Suffolk County Department of Public Works
Gail Lolis, Deputy County Attorney
Thomas J. Fox, DAV Vans
Dennis L. Krulder, DAV Transportation
F. Jeanne Anzalone, Resident
And all other interested parties

MINUTES TAKEN BY:

Diana Kraus, Court Stenographer

MINUTES TRANSCRIBED BY:

Kim Castiglione, Legislative Secretary

(THE MEETING WAS CALLED TO ORDER AT 2:12 P.M.)

CHAIRMAN BEEDENBENDER:

Okay, we're going to get started. Would everyone please rise for the Pledge led by Legislator Horsley.

Salutation

Okay. Thank you, everybody. I don't have any cards. Is there anybody in the audience that wishes to address us? Okay. Seeing none, we'll move directly to the agenda.

Tabled Resolutions

The first resolution is **IR 1107, To enhance efficiency in the selection and leasing process for County buildings. (Romaine)**

Last time we had a discussion on this, Legislator Romaine, you had requested that I speak with the Comptroller about the second resolved clause regarding leasing and/or bidding on an RFP process for smaller spaces. I did attempt to do so. Unfortunately, the Comptroller and I we never -- we didn't link up, so I wasn't able to have that conversation. My concerns remain. I don't know what your preference would be at this point, but my preference would be to table it. If you would like to speak of course you are more than -- please.

LEG. ROMAINE:

Well, obviously being the member of the minority party, when someone in the majority party has concerns and that person is the Chairman of the committee, the obvious point is that this is probably going to be tabled. But this is what I would ask both of yourself as Chairman and Legislator Horsley and Legislator Stern. I'd like you to take a look at IR 1107 again. We are going to meet in two weeks.

CHAIRMAN BEEDENBENDER:

Yes, sir.

LEG. ROMAINE:

If you could convey to me, certainly within the next week your specific objections, I will take it upon myself to speak to the Comptroller. I see him on a very regular basis and I know there will be an event that I will see him at on Thursday night out east, and I will speak to him there if not over the phone, and we will go over this again. But I'd like to hear by next week or I'm going to have to make the best arguments I can because obviously this resolution word for word is exactly what the Comptroller said in his report on leasing of space. And we've had this debate before, and while DPW has certain objections to this or that or we're doing this now or this is something that we'll address or words to that effect, essentially what this piece of legislation does, it codifies everything in the Comptroller's audit. This is word for word from the Comptroller's audit. And I had asked you at the last meeting, which was over a month ago, if you would reach out to the Comptroller on this, and apparently that has not been successful.

CHAIRMAN BEEDENBENDER:

To be perfectly frank, I reached out to him earlier this week and we just haven't been able to contact him. I should have done it earlier. But to be -- I just wanted to respond to your request from last time that I did not have that conversation yet.

LEG. ROMAINE:

And I have been patient on this because this has been tabled multiple times and I will be patient another two weeks, but I would appreciate if the majority members of this committee, who represent the majority party, would contact me with their specific objections to impartial

recommendations that were made by the auditing staff of this County based on years of experience with leasing of space. Thank you very much.

CHAIRMAN BEEDENBENDER:

I will be happy to do so. We'll send it over to your office by the end of the week. Okay. If there are no further -- Legislator Stern?

LEG. STERN:

No.

CHAIRMAN BEEDENBENDER:

All right. If there are no further comments, I'll offer a motion to table.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern. All in favor? Opposed?

LEG. ROMAINE:

Opposed.

LEG. LOSQUADRO:

Opposed.

CHAIRMAN BEEDENBENDER:

Legislator Romaine is opposed and Legislator Losquadro as well. Abstentions? The motion is tabled.

(Vote: 3-2-0-0 Opposed: Legislators Losquadro and Romaine)

IR 1114, To implement Sunday bus service and extend weekday morning and evening service in Suffolk County. (Romaine).

LEG. HORSLEY:

Motion to table.

CHAIRMAN BEEDENBENDER:

Motion to table by Legislator Horsley. Seconded by Legislator Stern?

LEG. STERN:

Sure.

CHAIRMAN BEEDENBENDER:

Is there any comments on the motion? Hearing none, all in favor? Legislator Romaine. I'm sorry.

LEG. ROMAINE:

Both comments -- I'm sorry, my ears are still echoing from the State of the County speech regarding this matter. It did say -- the Executive did say he wanted to extend Sunday bus services. He did say that he wanted to extend Sunday bus service and the hours for bus services in this County. This bill had been sponsored by me in the past. I was happy to see Mr. Levy claim credit for this in his State of the County message and I decided to take him up on his statement and that's why this bill has been submitted. I'm sorry that the majority wishes to table this bill yet again.

CHAIRMAN BEEDENBENDER:

Well, the motivation, at least I can speak for myself, Legislator Romaine, is that we certainly -- I think Legislator Horsley and yourself are working on something with the MTA that would accomplish

this goal. There are several other proposals, one which we'll take up a little bit later in the agenda, but this particular resolution does not include the funding to make it happen. I know that -- I know it's a report on what the cost and things for that, but I think the better way to go is that this is included in the bill, the MTA study, that would give us a better idea of not only how much it would cost and what the implications of the MTA taking it over. So I thank you for your consistent discussion of this topic and I think we're going to pass your bill a little bit later today. But I just don't think that this particular resolution is the one that will help us accomplish that goal. So that would be my motivation for tabling.

LEG. ROMAINE:

Well, I understand that and that makes sense. Obviously I am still committed to this. I want to say publicly I want to work with the County Executive when he said this in his State of the County speech, and at that time he didn't even spell out any specifics for funding. I was heartened by this. I certainly want to work with the County Executive on this issue, and yes, I'm hopeful that this issue may become moot, as you point out, by the MTA bill that Legislator Horsley and I have. Obviously the MTA should be bearing the expense in light of the new taxes they have imposed on our citizen, in which I believe almost every member of the Suffolk Delegation, not every member, but almost every member, voted against. Thank you.

CHAIRMAN BEEDENBENDER:

Legislator Horsley.

LEG. HORSLEY:

Yeah, just quickly, and I'm sure Legislator Romaine already knows this, but there has been a bill introduced in the Assembly by Assemblyman Sweeney as well as Senator Johnson. It is moving along and we are going to be, hopefully, with our bill approved we are going to be moving along on the County end and Sunday service is paramount to both of us as well as everyone it seems on this Legislature.

CHAIRMAN BEEDENBENDER:

Okay. If there is no further comments, we have a motion and a second, Barbara, to table? All right. All in favor? Opposed? Abstentions?

LEG. ROMAINE:

Opposed.

CHAIRMAN BEEDENBENDER:

Opposed, Legislator Romaine. Abstentions? IR 1114 is tabled. **(Vote: 4-1-0-0 Opposed: Legislator Romaine).**

IR 1139, Adopting Local Law No. 2009, A Local Law to ensure safe operations of helicopters. (Romaine).

LEG. ROMAINE:

Motion to approve.

LEG. LOSQUADRO:

Second.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Romaine, seconded by Legislator Losquadro. On the motion anybody? Keep drinking. I should have just gone on while you were drinking. Gail, while you are there I guess if you want to make a comment and then I guess I have a few questions.

MS. LOLIS:

Okay. I just wanted to advise the committee that this bill, even though it does take out the minimum height requirements, still has preemption problems as far as Federal law and the State law is concerned.

CHAIRMAN BEEDENBENDER:

Okay. Thank you, Gail. Ed, did you wish to --

LEG. ROMAINE:

Yes. I will ask if the County Attorney's Office would contact my office. Mr. Faulk has a number of cases that would seem to contradict what you just said, and I would appreciate you getting those citations from Mr. Faulk so that you can better study this issue. I know a preliminary glance at that would come to the conclusion that you just came to, but in fact there are case law that would allow us, in fact, to control the safe operation of helicopters, particularly commuter helicopters from Manhattan in Suffolk County. So I would tell you that I think that those are cases that you should explore and maybe at the next committee meeting if this is tabled that you can report back to us. I'm hopeful that this will be reported out, and if it is then maybe you could do that between now and next Tuesday and come to the General Meeting and report back. Thank you.

MS. LOLIS:

Thank you.

LEG. HORSLEY:

Yes. Thank you, Mr. Chair. I'm not sure if any -- who I'd ask this question of, but I know that Congressman Bishop had an announcement on this issue just several days ago, and frankly I just don't know the details. Maybe, Ed, maybe you could enlighten us.

LEG. ROMAINE:

Well, I've worked closely on this issue with both Congressman Bishop and Senator Schumer. Congressman Bishop, as he did last year, was able to include in the transportation appropriations bill a requirement for the FAA to study helicopter routes and to make recommendations on helicopter routes to alleviate noise, to improve safe conditions and things of that nature. That was voted out of the house. Now we have to see if that's going to be in the Senate. Passing this bill today certainly would be a signal to Senator Schumer, who I have worked very closely with, and his staff, that Suffolk County is still concerned about this and that it should be included in the Senate version.

LEG. HORSLEY:

So one is not contrary to the other?

LEG. ROMAINE:

Absolutely not. In fact, my hope is sometimes you do things like this to encourage the FAA to step up to the plate. If you remember, I know our County Attorney spoke about a preemption issue. We had a representative, a lady from the FAA who came. And I asked her a whole set of questions because they claimed preemption and then we went over, and I have no problems with preemption if you are going to enforce -- if you are going to do something -- but what the lady wound up saying, and I don't want to go on a long speech, is essentially they do nothing. They have no interest. They don't regulate the height, they don't do anything regarding helicopter flights whatsoever over what arguably is probably one of the more busier air spaces in the United States.

And it's okay to be preemptive if you are going to take action, but if you are not going to take action or exercise any regulatory authority, then you have to question even the concept of preemption, and that's exactly what I'm doing here, although case law would allow localities, and I think if the County Attorney checks into it she'll find that case law does allow this. But clearly what we are sending the signal is that Suffolk County residents are terribly inconvenienced by the situation and we are going to respond to that situation, particularly for the north shore of Suffolk County, and that's something that we're definitely going to address.

So I just would say one other thing. I'm going right here. There are two things that, and I'm going to give two citations to the -- because my Aide is very thorough -- two citations to the County Attorney's Office. One is {Hughes} versus the Attorney General of the State of Florida; the other one is People versus Valenti, V-A-L-E-N-T-I. So there are two citations and we'll provide you with additional citations that will cite very clearly that localities do have the right to ensure the safe operation of not only motor vehicles, but helicopters within their jurisdiction.

So I would encourage us to pass this out today. I know there is a great number of people that you would think that this is not a large issue, but if you lived in areas that are affected by this -- and it's my understanding, if I'm not mistaken, and I'll address this to George Nolan, that we asked Mr. Nolan to review these cases. Have you had an opportunity, Mr. Nolan, to review these cases and these citations that my office provided?

MR. NOLAN:

Your office did provide me with one citation, one case, which we did review. And unfortunately that case never directly answered what the preemption issue -- it didn't get that far. Back when this bill was debated, I believe last summer, my office issued an opinion that there was a preemption issue because it was trying to speak to the proper altitude of helicopters. This law in its definition of careless and reckless manner talks about altitude, so I would say at this point that the opinion -- my opinion on this has not changed. We believe there is a, you know, a very definite preemption problem, notwithstanding the citation that your Aide shared with me.

CHAIRMAN BEEDENBENDER:

Legislator Stern.

LEG. STERN:

Thank you, Mr. Chairman. Yeah, I agree with you, Legislator Romaine, that this is an important issue and it's an important message to send. As to what is going on in Washington right now, it is my understanding that it's moving in a positive direction. We hope that it moves quickly through the Senate so that residents of Long Island, shore to shore and everywhere in between, will get the relief that they need and deserve.

I guess -- well, of couple of questions. First off all, Legislator Romaine, do you have any idea as to what the current status is in the Senate and what the bill calls for, the one that was approved in the House, as to the timing of when this analysis would be done and the study issued.

LEG. ROMAINE:

The analysis will probably be done over the succeeding year. I have no idea of the status in the Senate, but the House bill would call for an analysis and even recommendations of routes that would alleviate the decibel level of noise that are inflicted on many of our constituents along the north shore and north fork of Long Island and Shelter Island. So I don't know where the Senate is on this. And we are in touch with Schumer's office, but apparently there's a lot of things on the Senate agenda, and when the transportation appropriations bill would come forward, whether there would be a conference committee between the House and Senate version, and what the final version would be I can't predict, but it will probably be done sometime obviously before October 1st, the beginning of the Federal fiscal year.

So this is our way of saying we're concerned about the residents of Suffolk County, we are concerned about commuter helicopters, particularly coming out of New York City. This does not restrict local helicopters, those who fly for farming purposes or for real estate to take photos of real estate, for those for military purposes. There's large exemptions for large categories, and what you are left with is the one major category, is essentially commuter helicopters.

LEG. STERN:

Ultimately this bill is a substantive bill. It lays out what is acceptable and not acceptable operation of helicopters within Suffolk County as opposed to what is going on right now in DC, where it is

study and analysis and developing plans looking forward in the future. And I agree with Counsel that there certainly is an issue. Ultimately how that issue plays out is going to depend on facts and circumstances, not just this legislation, but how ultimately it's enforced.

I would ask that if this bill makes it out of committee and goes before everybody at a general session, that prior to that meeting that really every member the committee and all of our colleagues receive copies, Legislator Romaine, of all of the citations that you have been able to come up with. And if there is going to be something submitted by the County Attorney's Office, it would be great to have that prior to our deliberation as well.

CHAIRMAN BEEDENBENDER:

Okay. I just had a couple of questions. I guess there would be -- to the sponsor if you would allow. The prohibitions, section three of the bill, it say, you know, "It shall be unlawful to operate or for the owner to permit the operation of any type of helicopter in a careless or reckless manner so as to endanger the life or property of others." And careless or reckless is defined as failing to take all actions reasonably necessary for safe operation while operating an altitude that creates a hazard or undo hardship for persons or property on the surface.

Forgive me if this should be directed somewhere else. But I'm not a lawyer, but it seems that it would be very difficult to convict somebody of an unclassified misdemeanor and the fine of up to \$1,000 because hardship for a person -- undue hardship is a subjective term and I don't know how we could ever levy a fine or a penalty upon somebody for that. So if you have thoughts.

LEG. ROMAINE:

I would be happy to answer that. Obviously when these -- usually when legislation is drafted it's usually in general form and when it's implemented regulations come forward, usually from the bureaucracies, to spell out the exact meaning of that. That's the way it's been done in the State and Federal level and it's been done that way for several bills in Suffolk County.

Essentially, asking what hazard it is, when I asked the FAA if they have a minimum altitude standard, the lady replied they had none. They said that, you know, normally we'd like them to fly above 300 feet. But there was really no standard that they were prepared to enforce. I have to stay if the FAA wants to regulate helicopter flights I welcome them. If the Federal Government wants to step in and regulate, I welcome them. But to say well, you preempted, it's our job, and by the way, we don't intend to do any of that job. We don't intend to cite any helicopter for unsafe or hazardous use, even if they fly at treetop level. I think that this bill is going to send a very, very, very clear signal to the Federal Government -- we welcome your involvement in the helicopters, but we want to make sure that you protect our citizens. We want to make sure that the decibel levels are acceptable. We want to make sure that in a given Friday night you don't have 23 helicopters fly over your home at low levels making it impossible for you to enjoy.

Every helicopter that flies over this County has a transponder. You can go on-line and check those transponders. You can enforce a law if you get a complaint by going back and reviewing those tapes and looking at the altitudes that these helicopters fly. You can make professional helicopter pilots be aware that when they are going over Suffolk County, they should be cognizant of how they fly, where they fly, and whatever they can do to avoid undue nuisances to the residents on the ground. It also would encourage the Federal Government as the Senate takes up this bill, to step up, to review this, to study this and to make recommendations. Yes, this bill is not actually for preemption. This bill is to encourage Federal action where there is none on an issue that impacts a great number of residents of Suffolk County. I would ask you to vote yes on this. Thank you.

CHAIRMAN BEEDENBENDER:

Legislator Romaine, there is no doubt whatsoever that you have done your research and you are working hard on this. What I am not having the ability to grasp or what I don't understand is, you know, I understand you can go through tapes and see a transponder and how high was a helicopter and in what manner was it flying, but the language of this law doesn't allow for any agency to craft

rules and regulation that's not in here. But moreover, the difference -- you know, a hardship or an undue hardship for -- it could be different from homeowner to homeowner, so I just don't know how. It will send a message, I'll agree with you on that, but practical application of the law that we'll be putting on the books, I just don't know how that will be done, which is something that I'm trying to figure out.

LEG. ROMAINE:

It is my intention, should this law pass, it is my intention to {inaudible} Federal action from the Senate. If the Senate bill passes, in discussion with my colleagues on both side of the aisle, we'll decide if further action is warranted. If the Senate does not act, then I will bring forward a secondary legislation to spell out in more specific terms the items of this bill and how enforcement procedures specifically would proceed. We would enforce how it would be enforced, the standard for enforcement, and we would rely -- again we would contact several of the attorneys and my staff that work on citations so that we would have sound legal ground in proceeding. It is my hope that passing this alone would be enough to stimulate Federal action. And as I said, I have worked closely and collaboratively with both Congressman Bishop and Senator Schumer on this issue. Thank you.

CHAIRMAN BEEDENBENDER:

Thank you. With the risk of extending it I just think if we are going to do it we should do it all at once, but I think at this point we have said our piece.

There is a motion and a second to approve. I'll offer a motion to table. Is there a second? Hearing none, the motion to approve is before us. If there are no further comments, all in favor? Opposed? I'm opposed. Abstentions? The bill is approved. IR 1139 is approved. **(Vote: 4-1-0-0 Opposed: Legislator Beedenbender)**

IR 1201, Directing the Department of Public Works to hold public hearings on new bus fares in order to implement Sunday bus service. (Schneiderman). I'll offer a motion to table.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern.

LEG. STERN:

On the motion.

CHAIRMAN BEEDENBENDER:

On the motion, Legislator Stern.

LEG. STERN:

Thank you, Mr. Chairman. As promised to my colleagues on the committee, I had reached out to Legislator Schneiderman's office explaining some of my concerns and explaining that I didn't think we were too far apart on what I thought would be a better way to go with this legislation, still accomplish the underlying goal that the sponsor wants to accomplish, but I have not then heard back. I'm not aware of any change that has been made, that there has been no follow-up. So I will continue to support a tabling motion. My hope was that the sponsor taking into account some of the things that I had conveyed will ultimately come to a relatively straightforward amendment of the bill.

CHAIRMAN BEEDENBENDER:

Okay. If there are no further comments, we have a motion and a second to table. All in favor? Opposed? Abstentions?

LEG. ROMAINE:

Oppose.

CHAIRMAN BEEDENBENDER:

Opposed to tabling by Legislator Romaine. IR 1201 is tabled. **(Vote: 4-1-0-0 Opposed: Legislator Romaine)**

Introductory Resolutions

IR 1431, Amending the 2009 Capital Budget and Program and appropriating funds in connection with reconstruction of CR 94, Nugent Drive Culvert (CP 5371). (Co. Exec.)

Gil, this takes money -- Legislator Romaine, I saw your hand.

LEG. ROMAINE:

After your question.

CHAIRMAN BEEDENBENDER:

Gill, this takes money from the CR4 Commack Road project. Again, this is something we talked about earlier that's going to be funded by stimulus money, so this is okay, that project will still go forward in addition?

COMMISSIONER ANDERSON:

Correct.

CHAIRMAN BEEDENBENDER:

Okay. Legislator Stern.

LEG. STERN:

Yes, thank you. Just for clarification for the record that the understanding is that that project is going to be funded entirely and in full by Federal monies.

CHAIRMAN ANDERSON:

Correct.

LEG. STERN:

Thank you.

CHAIRMAN BEEDENBENDER:

Legislator Romaine.

LEG. ROMAINE:

Yes. Could I ask what this project involves and what you are planning to do, the timetable for this?

COMMISSIONER ANDERSON:

This is additional funds to allow us to construct improvements to the structural deck of the road as it goes over the Nugent Drive culvert. This is Nugent Drive itself, County Road 94. Originally we were going to go through a certain technical process to stabilize the ground but found that it was more expensive and we're going with the structural --

LEG. ROMAINE:

And where is this culvert?

COMMISSIONER ANDERSON:

It's under Nugent Drive. I don't know the exact culvert itself.

LEG. ROMAINE:

I can only think of one that would come to mind and that's probably about a hundred feet north of

where the Riverhead Circle is. But I guess Bill Hillman will tell me that. Is that correct?

COMMISSIONER ANDERSON:

That's correct, yeah.

LEG. ROMAINE:

It's about a hundred feet north of the circle there. And what are you -- how much money are you planning on to spend on that?

MR. HILLMAN:

I believe the project is roughly about \$700,000 to replace the top slab of that culvert.

LEG. ROMAINE:

And there is sufficient underpinning and support that replacing the top slab is all you will need to do.

MR. HILLMAN:

That's correct.

LEG. ROMAINE:

And that's \$700,000?

MR. HILLMAN:

That's correct.

LEG. ROMAINE:

I hope the gentlemen know on this committee that the culvert is probably less than the width of this table. Just so -- you should know, because that's \$700,000, which is pretty expensive, to replace a slab that is essentially no bigger than this. I mean, perhaps wider, but no longer than this table.

MR. HILLMAN:

It's the width of the road, which is I'm guessing it's maybe a 100 foot wide road, and it's probably about a 15 foot wide culvert. It needs to be done in phases. You can't shut the road down and just -- we could get it done a lot cheaper if we shut the road down and divert the traffic and allow the contractor to go in and just demo it and be done with it.

LEG. ROMAINE:

Right.

MR. HILLMAN:

But we need to do it in phases and that increases the cost dramatically.

LEG. ROMAINE:

And when would you start this project?

MR. HILLMAN:

We probably would be letting the job towards the summer. It would probably begin construction next year.

LEG. ROMAINE:

Okay. We're amending the 2009 Capital Budget for a project that essentially will not begin until next year?

MR. HILLMAN:

The reso that I have is not in line with the reso that is listed as an introductory resolution. The reso that I have in my book, and I believe should be before this committee, is for engineering and construction funds to rehabilitate ten culverts. So I'm not sure how the title on the agenda was

confused or if the resolution in my book is incorrect.

CHAIRMAN BEEDENBENDER:

The resolution that I have before me, Bill, specifically references CR 94. Now, if it is for ten culverts, then it's just a title error, but --

MR. HILLMAN:

No, it's two different resolutions. I apologize.

CHAIRMAN BEEDENBENDER:

Okay. So what -- so it's 700,000 for one culvert.

MR. HILLMAN:

I was quoting the number that was on that other resolution, but --

CHAIRMAN BEEDENBENDER:

Well, the backup to this one. And forgive me, Legislator Romaine, if I jumped in on you.

LEG. ROMAINE:

No, help me out.

CHAIRMAN BEEDENBENDER:

The backup letter to Mr. Zwirn says to appropriate the sum of \$500,000 for construction in the above referenced projects, not 700,000. It appears that it's 500,000.

COMMISSIONER ANDERSON:

But the total project is 720.

CHAIRMAN BEEDENBENDER:

It is.

COMMISSIONER ANDERSON:

Yes.

CHAIRMAN BEEDENBENDER:

Okay. And just to follow-up, isn't that a little bit high for one culvert or is this just a significant amount of work? Forgive me, I just don't know.

COMMISSIONER ANDERSON:

Again, you have to maintain the roadway during construction and that does add -- prolong the contract as well as add additional cost to it.

CHAIRMAN BEEDENBENDER:

Is this -- it's a new one?

COMMISSIONER ANDERSON:

No, it's an existing road that goes over the creek that Legislator Romaine mentioned.

CHAIRMAN BEEDENBENDER:

But the culvert exists now.

COMMISSIONER ANDERSON:

The culvert exists now, yes.

MR. HILLMAN:

I'd like to note that this will be publicly bid. If the engineer's estimate is high, the funds will not be expended. You know, it is what it is, but these are the recent numbers that we have been getting for construction rehabilitation, or we feel we'll get.

CHAIRMAN BEEDENBENDER:

Okay. If there are any further questions? We have no motion, right Barbara?

MS. LOMORIELLO:

No motion.

CHAIRMAN BEEDENBENDER:

Okay. I'll offer a motion to approve.

LEG. ROMAINE:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Romaine. All in favor? Opposed? Abstentions? IR 1431 is approved. **(Vote: 5-0-0-0).**

IR 1433, Approving maps and authorizing the acquisition of lands together with Findings and Determinations pursuant to Section 204 of the Eminent Domain Procedure Law, in connection with acquisition of properties for intersection improvements on CR 67, Motor Parkway at Adams Avenue, Town of Smithtown, Suffolk County, New York (CP 3301). (Co. Exec.). Despite all that language, Gil, this is part of the highway project, just acquiring the lands and approving the maps?

COMMISSIONER ANDERSON:

Correct, this is part of the process.

CHAIRMAN BEEDENBENDER:

Okay. I'll offer a motion to approve. Seconded by Legislator Stern. All in favor? Opposed? Abstentions? IR 1433 is approved. **(Vote: 5-0-0-0).**

IR 1437, Authorizing Estee Lauder Breast Cancer Awareness Program at H. Lee Dennison Executive Office Building and Cohalan Court Complex. (Alden). I'll offer a motion to approve.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern. All in favor? Opposed? Abstentions? IR 1437 is approved. **(Vote: 5-0-0-0).**

IR 1439, Directing the Suffolk County Sewer Agency to prepare maps, plans, reports and make recommendations in accordance with Article 5-A to form a sewer district at Montauk Highway in Mastic/Shirley. (Browning).

LEG. HORSLEY:

Motion.

CHAIRMAN BEEDENBENDER:

Motion by Legislator Horsley.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern. Gil, are you reaching for your microphone to say something? Do you have a comment?

COMMISSIONER ANDERSON:

Well, this is the first step in the process for creating a district down in Mastic/Shirley which has been of interest, both to the department as well as you gentlemen, you know, up there. So this will really get us going towards that.

CHAIRMAN BEEDENBENDER:

Just in terms of a process, this basically creates the district on paper and then we can move forward. What would be the next step, and once a district is created on paper what's the next thing that happens?

COMMISSIONER ANDERSON:

Well, there would have to be a public hearing held subject to a permissive referendum, unless all the property -- unless it can be established that all the property owners within the district want to move ahead with it. After that it goes to the State Comptroller's Office for approval, and the Suffolk County Sewer Agency would then create the district -- I'm sorry. You would then have to go through the Sewer Agency for conceptual approval, and then after that it's the normal process beyond that.

CHAIRMAN BEEDENBENDER:

Okay. Legislator Romaine.

LEG. ROMAINE:

Yes. Out of curiosity, having represented that area once in the County Legislature many years ago I'm somewhat familiar with it, let me ask you this. What would be the major route that the sewer pipes would run in this area?

COMMISSIONER ANDERSON:

At the present time the sewers themselves would run east to west along Montauk Highway.

LEG. ROMAINE:

Are we currently doing a construction project on Montauk Highway?

COMMISSIONER ANDERSON:

Yes, we are.

LEG. ROMAINE:

Was it not, and I may be mistaken, I no longer represent that area, but Legislator Browning does. Was it not Legislator Browning's contention that since a sewer district was imminent that as part of the highway project it would make wisdom to install a dry sewer line as we -- by the way, this County has installed dry sewer lines, which I'm sure Ben Wright can tell you about, all over this County in anticipation of eventually either constructing the sewage treatment plant or as I recall in the 80's, we actually had to refund people's money who had contributed and the dry sewer lines were there but we had never built the sewers. Wouldn't that make sense as we are opening the highway once to put the dry sewer lines in if we anticipate a sewer district being created in the near future?

COMMISSIONER ANDERSON:

Absolutely not. It's not in the near future. This is a multi-year process. We've had this discussion before when Legislator Browning had proposed the addition of the dry sewers within the corridor.

We don't know where the treatment plant's going to be established, so therefore you don't know which way the pipe is going to be pitched. You know, realistically there isn't even a district established. It may come that the district really doesn't want to establish, you know, the land owners within the district boundary don't want to establishing it. There are a lot of options and to put in a dry sewer just for the sake of a statement we are, you know, as a department we are against.

LEG. ROMAINE:

I understand your opposition to dry sewers. I obviously think that the department even now, even now could make recommendations as to potential locations, most of which would probably be north of Sunrise Highway in that area where there might be suitable land for a sewer treatment plant. So to say that the location would be a mystery I don't think is accurate, because you can make recommendations as to potential locations. And the vendor, the private contractor, isn't going to get the development rights anyway down south, so that's not going to happen. It's going to happen up north.

You know, I just have a lot of concerns that we are not dealing with this. I'm watching something else happen. It's not in my district so I'm not going say we are building three separate sewage treatment plants and it just doesn't seem to make sense, all within a mile of one another. At Dowling College, for the industrial park, which is in my district, and across the way we need them for housing units or the commercial development to be developed on the northwest corner of the Expressway and William Floyd. {Inaudible} just impose a sewer district instead of having three separate sewage treatment plants, I'll never understand.

I was looking at a report from the '80's, Ben might remember, where they talked about the continued proliferation of these small plants. I think Mr. Horsley is very familiar with this as well in his -- I don't see -- how long do you think in your experience before a sewer district would emerge as operational in the Mastic/Shirley area? Let's just say for the commercial area along Montauk Highway. How long would you anticipate? Mr. Wright, thank you. Mr. Wright, from the Sewer Agency.

MR. WRIGHT:

We did submit a report in response to a legislative resolution earlier this year that looked at three alternatives in the Mastic area. Part of that report indicated that it would be five to seven and a half years before we started the sewer district formation process until you got to an operating facility. What was in that report were very substantial costs per property owner, and Legislator Browning has set up a meeting in the near future with the community to discuss the sewer district formation process.

LEG. ROMAINE:

Thank you.

CHAIRMAN BEEDENBENDER:

Just to follow-up on one of the things that Legislator Romaine was talking about. When we had the discussion about the sewer pipes one of the questions, I don't know, Ben or Gil or maybe it's even our Counsel that I should be asking the question to. How could we bond for the pipe that would go in the ground that would be used by the sewer district that isn't formed, because it seemed like then it would be general obligation bonds for the pipe and then -- being used by the people in the sewer district. Is there a practical way to even do that?

MR. WRIGHT:

I believe by the one resolution that's similar to this up in Rocky Point it was indicated in the resolution that when -- if and when the district is formed then the residents of that district have to repay wherever the funding came from. I'm not sure if legally you can do that with construction because that was a planning process, but you know, there was that provision in there that -- and I believe it's also in County Law that says that there has to be a reimbursement once the district is

formed.

CHAIRMAN BEEDENBENDER:

Okay. All right. Legislative Counsel.

MR. NOLAN:

I'm just going to add the -- at the time we were considering Legislator Browning's proposal for the three million dollars to put the pipes in the ground I do remember that bond counsel raised objections at that time. I don't remember specifically what they were, but there was definitely an issue raised.

CHAIRMAN BEEDENBENDER:

Okay. All right. Gil.

COMMISSIONER ANDERSON:

There was, just really briefly, too, there was the issue because it was Federally funded no Federal funds could be used for -- specifically for the sanitary sewers. They were specific to roads and drainage.

CHAIRMAN BEEDENBENDER:

Well, irrespective of that discussion I think probably we are all in agreement that starting -- at least this process needs to be begun and this is the right way to do it, so if there are no further comments we have a motion and a second to approve. All in favor? Opposed? Abstentions? IR 1439 is approved. **(Vote: 5-0-0-0)**

LEG. ROMAINE:

Would the Clerk please list me as a co-sponsor.

CHAIRMAN BEEDENBENDER:

IR 1448, Authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No. 12 - Birchwood-Holbrook with the owner of 44 Warren Avenue - Ronkonkoma (BR-1615). (Co. Exec). Gil, this is just allowing somebody to hook up to the district that's close?

COMMISSIONER ANDERSON:

Yes. This is a single family residence that wants to hook in.

CHAIRMAN BEEDENBENDER:

Great. All right. One down, about 700,000 to go. All right. I'll offer a motion to approve.

LEG. STERN:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Stern. All in favor? Opposed? Abstentions? IR 1448 is approved. **(Vote: 5-0-0-0).**

IR 1454, Authorizing a feasibility study evaluating the MTA's assumption of Suffolk County Transit Bus Service. (Horsley).

LEG. ROMAINE:

Motion.

CHAIRMAN BEEDENBENDER:

Motion.

LEG. HORSLEY:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Horsley. If there is no -- anybody on the motion? Seeing none, all in favor? Opposed? Abstentions? IR 1454 is approved. **(Vote: 5-0-0-0)**.

IR 1456 of 2006, Requiring Department of Health Services to establish the objective criteria for dredging projects pursuant to Local Law No. 50-2006. (Schneiderman)

LEG. ROMAINE:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Motion to approve by Legislator Romaine. I'll second it for the purposes of discussion. Gil, go ahead.

COMMISSIONER ANDERSON:

I had asked that this be tabled at least for one cycle so I can reach out to the Legislator. We have been working with the Department of Health Services over the past year to develop the criteria. We have a draft of the criteria. What we are doing now is reaching out to the regulatory agencies who are really going to have jurisdiction over this, that being DEC, US Fish and Wildlife, National Marine Fisheries, and the like, to make sure that they are on board with what we establish as that criteria, because without that we might be sending something down the wrong path.

CHAIRMAN BEEDENBENDER:

Have you shared that draft with Legislator Schneiderman?

COMMISSIONER ANDERSON:

No, that's what I'm asking to.

CHAIRMAN BEEDENBENDER:

Can you?

COMMISSIONER ANDERSON:

Yup, I will.

CHAIRMAN BEEDENBENDER:

Okay. Legislator Romaine, then Legislator Stern.

LEG. ROMAINE:

I believe it was last year that Legislator Schneiderman adopted -- had adopted a resolution allowing a category for dredging that would deal with environmental issues. Is that correct?

COMMISSIONER ANDERSON:

Yes, it is.

LEG. ROMAINE:

I can't remember exactly where, but I think it was about a year ago, and in that time period the Health Department could not develop the criteria once this legislation was passed, even though that was the burden that was placed on them as a result of the adoption of this resolution that I believe was signed into law almost a year ago? And now he has to put a further resolution forward to direct the Health Department to do something they should have done when this resolution originally passed?

I'm not asking you to defend the Health Department, but I am making a statement, a statement

that I hope my colleagues listen to, because this has to do with legislation that you will pass and you would hope that departments when you pass legislation would be responsive.

Do you understand what this piece of legislation is? Last year -- over a year ago, Legislator Schneiderman put in a piece of legislation to establish as one of the reasons for dredging environmental purposes, such as when a creek gets jammed up by it's mouth and begins to stagnate. That passed. And in that time -- and in the law it called for the Health Department to develop it. The Health Department didn't, and therefore he is forced to put in another resolution asking for the Health Department to do what they should have done when this first resolution passed. I don't know about you --

COMMISSIONER ANDERSON:

If I may.

LEG. ROMAINE:

I will just finish this statement by saying that, you know, the bottom line here is I am going to vote for this, support this. The bottom line is Legislator Schneiderman should not have had to do this and none of you, the majority, minority, whatever, should have to do this. The bureaucracy in the departments of County Government should be responsive to legislative initiate, particularly when passed and enforced by force of law. Thank you.

COMMISSIONER ANDERSON:

If I may say, the level of detail, and we have been involved with it as well as the Health Department, that's been involved with trying to establish the standards that would be able to show that you are being able to make water quality improvements, sediment improvements, as well as habitat improvements, have been difficult for us. And, again, reaching out to our -- the higher regulatory authorities has not received the quickest response, but we have been working on it. It took more than a year, it took more than a year, but we have been working on it.

LEG. HORSLEY:

Hi, Gil. I think you are just now saying what I originally understood, that we have been working on those health related listing of what would be that criteria for -- well, since I have been talking about the Frederick Canal. That's when I started hearing about this. My understanding is you're about done or you're about ready to pass regulations? Where are you?

COMMISSIONER ANDERSON:

Again, we have a set of draft regulations with respect to, you know, this requirement, this eleventh requirement under the dredging projects that we want to get and get approval from the regulatory agencies to make sure that what we're doing meets what they are going, you know, they are going to hold to. We don't want to be out there with too little detail, that leaves, you know, the towns -- because it's really going to be the burden of the towns to provide that information to the County. Without giving that datum level, if you will, of information that's going to be required, you know, it could be putting more work on them. Similarly, we need to know from the regulatory agencies that what we have established is legitimate in their eyes, otherwise this could go on -- this could prolong the whole process which is taking way too long as it is.

LEG. HORSLEY:

Yeah, way too long. So what -- this bill itself, then, is it redundant if you are already working on it and you are coming up with these conclusions?

COMMISSIONER ANDERSON:

Yeah, we definitely have, you know, we have -- it's a work in progress. We expect, again, as soon we get some type of feedback from the regulatory agencies there will be some give and take. I don't know that 30 days is enough. I would suggest it's probably going to be more knowing, you know, the burden that the DEC is up against, Army Corps, all those guys, so.

LEG. HORSLEY:

So this doesn't hurt, then.

COMMISSIONER ANDERSON:

No, not at all. But the 30 days, I would ask if I could speak with the Legislator and show him what progress we've made and then, you know, and then proceed from there. Give him, you know, more of a firmer timeframe of when we think we can deliver something.

LEG. STERN:

Commissioner, I just want to be clear. Your issue with this bill, with this resolution, is not necessarily with the message that it's sending, but with the specific time requirement? You're suggesting that the 30 days in this bill isn't nearly a sufficient amount of time to get done what needs to get done?

COMMISSIONER ANDERSON:

From what I have seen in dealing with the regulatory agencies on this issue, yes.

LEG. STERN:

What's the likelihood of compliance within the 30 days?

COMMISSIONER ANDERSON:

Very unlikely.

LEG. STERN:

And --

COMMISSIONER ANDERSON:

I mean, in fairness, we could provide the Legislature with our draft requirements, but again, if it doesn't meet regulatory approval, you know, we are steering up the wrong, you know, the wrong path.

LEG. STERN:

How -- approximately how long will it take to get the draft to the regulatory agency? How long will it take for them to review it and get it back to you?

COMMISSIONER ANDERSON:

We have been trying to establish meetings with them, in the process of putting letters showing, you know, showing them what we've done. Again, I don't really know a timeframe, but we are in the process of trying to establish discussions with them so that we can keep this thing moving.

LEG. STERN:

Now, I take a look at this bill and I understand the underlying intent of the sponsor to move along a very important issue, and at first I was reluctant to support it because it seemed like it was moving along, but that's not necessarily the case. Now it seems like someone's reluctance would be based on the fact that the 30 day requirement, from what you're saying, is completely impossible.

COMMISSIONER ANDERSON:

You lost me. I'm sorry.

LEG. STERN:

This would require it to all be finished within the 30 day time period and from what you are saying, that is not a -- that is a time period that is impossible to meet.

COMMISSIONER ANDERSON:

Correct.

LEG. STERN:

Thank you.

LEG. ROMAINE:

Yes, thank you. I had an opportunity to take a look. Originally Legislator Schneiderman's law to establish an environmental standard to be used for dredging throughout the County was adopted I must say not a year ago, two years ago. That law that was adopted two years ago by all of us, but of course we don't care if people thumb their nose at what we do, because what does it matter. That law gave the Health Department the responsibility to develop the criteria. That was stated in Local Law 50. The Health Department has had two years. Because the Health Department did not respond, in essence, however you want to take a look at it, thumbed their nose at a legislative resolution, in fact, a Local Law of this County, Legislator Schneiderman was forced to introduce this law establishing that they will do this within 30 days. And now our Commissioner has said to us he should contact Jay Schneiderman.

I believe the Commissioners, County Executive, etcetera, are fully aware of when resolutions are laid on the table. Our last meeting was May 11th. This resolution was laid on the table May 11th. It is now June second. A telephone call to Legislator Schneiderman's office could have been made in the interim. It was not. Does anyone take this Legislature seriously? I got to tell you, I sat in a different Legislature at a different time, and people took that Legislature very seriously. That Legislature stood up to LILCO, that Legislature stood up to a lot of different things, including the County Executive, regardless of the party of the County Executive, and made its impact felt. Does anyone take this Legislature seriously? That's the question for this resolution.

I'd love to send a message to every one of the department heads that there are two branches of government and that when we pass laws we are serious about those laws, particularly something about this. I sit on the Dredge Screening Committee. There hasn't been a meeting in two years. When I sat on the Dredge Screening Committee in the '80's, we used to meet after the Public Works meeting almost every meeting and talk about dredging projects. Thank you.

CHAIRMAN BEEDENBENDER:

Gil, I have different questions than some of my colleagues. I don't understand something that you said earlier. You said that we have some criteria and we are going to the regulating agencies to have them review it. I don't understand why we need to do that. It seems like these are criteria that the County has established for what we will do a dredging project for, so it's this and I believe ten other things.

COMMISSIONER ANDERSON:

Correct.

CHAIRMAN BEEDENBENDER:

Right, that these are the -- this is the conditions that will kind of drive us to do a dredging project. So it seems like making a list of what we will pay for and do is different than getting the permit for a particular project. So I guess my question would be why do -- why does the criteria that we put in place have to be reviewed by them? If we decide to do a dredging project, it seems at that point they would give us a permit or not give us a permit. Or am I -- do I not understand the process.

COMMISSIONER ANDERSON:

No, because these are environmental issue we have to determine, for example, level of dissolved oxygen, you know, fish habitats. Is something going to, you know -- there has to be a certain means of the applicant being able to describe what improvements they expect based on dredging. Any of those requirements have to meet the approval of the regulatory agencies to get the permits. Without that, you know --

CHAIRMAN BEEDENBENDER:

But isn't that -- forgive me.

COMMISSIONER ANDERSON:

Somebody could just come in and say well, it's an environmental, you know, it's going to be an environmental improvement. Well, why, you know, what --

CHAIRMAN BEEDENBENDER:

But isn't that specific? That's exactly the question that I'm trying to figure out. You know, these criteria, as I understand it, this is what the County is saying, this is when we'll dredge, if something meets these criteria. But the specific, you know, what would be the oxygen benefit or whatever the other environmental things, isn't that project specific? So I guess what I don't understand is why they need to review what we'll decide we'll do. They review each and every individual case at the time when they issue a permit. They are not going to issue a permit off of these criteria; or am I wrong?

COMMISSIONER ANDERSON:

They are going to issue permits based on -- again, like you said, each creek or water body is specific. They're going to have specific improvements that they are looking to. But to sit there and come in with an application to say we are going to make an environmental improvement to some -- {Sheeps} Creek, for example. You know, well, how are you going to do that. What is the impact of dredging going to be? Is it going to increase habitat? How is it going to increase the habitat? It's something they are going to have to show or that we are going to have to show to get, you know, the permit approval from the regulatory agencies. Without that information it's, you know, additional work for us, but it may not be possible. If somebody comes in and says they can make something happen, they have to be able to show us what, you know, what's going to happen and how it will be done.

CHAIRMAN BEEDENBENDER:

Let me go back, then, and maybe try to answer it in a different way. I think you are answering what I asked, but I don't think I'm asking what I'm trying to get at. Why do we -- these criteria, it's a list of things that, you know, whether it's, you know, for navigation is probably one of them I am assuming at some point, right?

COMMISSIONER ANDERSON:

Yes.

CHAIRMAN BEEDENBENDER:

And there is a whole list of others. So when navigation is impeded we'll dredge. When environmental -- so we set up what we think the criteria are, but in every specific instance we'll have to prove, you know, when we do the Fredrick Canal it will increase habitat or increase oxygenation of the water or decrease other bad things in the water. I don't know what to call them. But I guess I just don't get the process. I'm not trying to be difficult, I'm just trying to have a concept.

COMMISSIONER ANDERSON:

Absolutely not. I think the issue is if you look at the other ten requirements, they're mechanical. It's like getting a flat on your car. Okay, you know what has to be done. Whether it's like you said, whether it's a navigational issue, they have to be able to get a boat through, that type of thing. With the environmental end it becomes a lot more detailed, and how does -- you know, again, I'll defer to Bill. Maybe Bill can explain it a little better than I can.

CHAIRMAN BEEDENBENDER:

Bill.

MR. HILLMAN:

Maybe I can give you, not really a specific example, but just a for instance. An applicant comes to the Dredge Project Screening Committee, who is made up of non-environmental members, and

makes a case that a particular creek has an environmental issue. To us laypersons it sounds perfectly fine. It gets approved. We have an approved dredge location for environmental criteria and the department goes through extensive application processes and things of that nature, that then the regulatory agencies completely disagree with. It's better to set up those criteria now so that all the applicants as they come in understand what they need to achieve, and also that the department understands what we need to achieve. The project level needs to be here or here or here. We as lay people don't know that right now.

CHAIRMAN BEEDENBENDER:

It got through that time. Thank you. Legislator Romaine, go ahead.

LEG. ROMAINE:

Yes. I just want to correct the record again. I had said it was one year, then I said it was two years, but it's three years. Three years. Three years ago this was passed. So guess what? You can pass any law you want, but if they don't implement the regulations that go with that law, you have passed nothing. We are not lawmakers, because everything we pass can be blocked by simple inaction. Three years. I want to emphasize that again to everyone sitting around this table. Three years. That's it.

CHAIRMAN BEEDENBENDER:

Sometimes I can't tell. Okay. Barbara, do we have a motion?

MS. LOMORIELLO:

Yes.

CHAIRMAN BEEDENBENDER:

What is it? I don't remember at this point.

MS. LOMORIELLO:

Motion to approve.

CHAIRMAN BEEDENBENDER:

Motion and a second to approve.

MS. LOMORIELLO:

And a second.

CHAIRMAN BEEDENBENDER:

Are there other motions?

LEG. STERN:

On the motion.

CHAIRMAN BEEDENBENDER:

Legislator Stern.

LEG. STERN:

This legislation provides for this process to be completed within 30 days. Commissioner, what has to be completed in 30 days? What is your understanding of this bill? What do you think is the likelihood of being able to have it completed within 30 days, and if it cannot be completed in 30 days, when can it be completed?

COMMISSIONER ANDERSON:

The legislation requests that we establish an objective criteria for dredging projects to propose -- proposed further ecological health and rain productivity pursuant to Section A8-5B11 of the Suffolk County Administrative Code. Again, we could certainly submit what we have within 30 days, but I

would caution that without feedback and hopefully concurrence from the regulatory agencies, we could be creating more problems than it's worth.

LEG. STERN:

Here is my concern. My concern is that this Legislature can pass this legislation directing our administrative agency to have their work completed within 30 days; we could direct them to have it completed in 30 minutes. They might try as hard as they possibly can to get it done, but my understanding here is that to have this process completed, it doesn't depend on our administrative agency. You're talking about going out to the regulatory agencies and it really depends on them getting their review done and getting it back. Is that the issue or am I off?

COMMISSIONER ANDERSON:

Yes.

LEG. STERN:

That's my concern here, is that -- you know, Legislator Romaine, I might agree with the underlying principle that you're talking about here, but we're -- this legislation imposes a time limit on a process that we don't and our administrative agency doesn't necessarily control. I don't know if that's necessarily something that we can impose on a regulatory agency. They need to do their work. That's not coming within our own department.

COMMISSIONER ANDERSON:

I don't know whether, and again, part of my hopes are to discuss with the Legislator whether we could establish a date, a deadline, and then if it's not reachable at that point, I would then or the Commissioner of Health, whomever, would come back to the Legislature to report where we have gone, what problems we have encountered, that type of thing. But, again, it would require it being revised.

CHAIRMAN BEEDENBENDER:

Gil -- I'll get you in a second, Legislator Romaine. I just -- we have done -- I guess we have done these projects before. When we submit an application for a dredging project for, you know, for whatever it is, I'm sure we have done one for environmental needs if -- we have never done one before.

COMMISSIONER ANDERSON:

No. This is not one of the criteria that the County establishes.

CHAIRMAN BEEDENBENDER:

Okay. But we don't -- is this like breaking new ground? It just seems to me at somewhere at the State level somebody might have done something for this reason and they would have set up goalposts. Or we're making something new here.

COMMISSIONER ANDERSON:

Really the regulatory agencies are just there to make sure that whatever we're proposing to do did not impact the existing wildlife, you know, fish, finfish, shellfish, you know, again, the birds, the Piping Plover, those folks -- sorry, those animals. They are not looking to establish a criteria. They are just making sure that what we do doesn't impact, you know, their habitats. It's a tough, you know, tough thing to develop.

CHAIRMAN BEEDENBENDER:

I know. I'm just trying to understand how we can develop global criteria that will be, not irrelevant, but kind of it doesn't matter because they are going to be location specific. How do you write something that, you know, for the water, you know, we are going to increase a stream --

COMMISSIONER ANDERSON:

The way, and again --

CHAIRMAN BEEDENBENDER:

Yeah.

COMMISSIONER ANDERSON:

-- as an engineer I'm trying to discuss environmental issues, but the way it's been explained to me is there is a certain level, like a minimal level of things that have to be done to promote habitat function. Whether that's like I said dissolved oxygen, certain sediments in the area, things like that. That's where we would want to establish that. What we would be looking for from the regulatory agencies is just basically their concurrence that yes, this indeed is something that could show that, you know, there will be some benefit environmentally to that area. Each site is specific and they are still going to have to look at it to get the permits depending on the time that we're going to work, depending on the work that we are going to do, where we are going to dispose the soils, things like that. I mean, there are a lot of issues involved.

CHAIRMAN BEEDENBENDER:

Legislator Romaine, I know you had requested, and then after that, Legislator Stern.

LEG. ROMAINE:

Yes, I listened to Legislator Stern, and certainly he is the voice of reason as he is on many things. However, I believe this is a time to be absolutely unreasonable. Absolutely unreasonable. Why not pass another law that's not going to be enforced? What does it matter? You're talking about them not having enough time to address this in 30 days? They've had three years. So what do you think Local Law 50 is worth right now? Not the vote you gave it, not the vote I gave it, because for three years they have done nothing.

Legislator Schneiderman had to resort to introducing another resolution to get them to do what they should have done to begin with. That was laid on the table on May 11th and the Commissioner had literally three weeks to give him a call and never did, and here we're confronted with whether we should table this or pass this. What do we care if it passes? It's not going to mean anything. It didn't mean anything when we passed Local Law 50.

But do I believe -- not believe, I know there are streams out there whose interface have been clogged and those streams have now become putrid and stagnant and would meet an environmental criteria but not another criteria. Do you think in the last three years any of those streams or those natural habitats benefitted from inaction? They did not.

I say pass this. I say send a very strong signal. I say the laws that we enact, the laws that the County Executive signs into law, should be followed. I mean, all reasonable speed? Three years? I'm for voting for this out.

CHAIRMAN BEEDENBENDER:

Okay. Legislator Horsley.

LEG. HORSLEY:

Gil just quickly. You mentioned that one of the criteria that you're formulating that would go in this is where the spoils would go? Are you serious? I mean, are we going to have to fix that before we get a criteria?

COMMISSIONER ANDERSON:

Part of the issue environmentally, again, that's what I meant by that is that's part of the permit process and we have to establish that. This has -- doesn't have to do with the disposal site. That's something we have to take up separately.

LEG. HORSLEY:

Okay. I misunderstood that.

COMMISSIONER ANDERSON:

Maybe I explained it wrong.

LEG. HORSLEY:

We'll be here until the cows come home for that.

COMMISSIONER ANDERSON:

Absolutely. In fact, one of the things I would like to state is the fact that part of what we're faced with is inaction on the part of the regulatory agencies. And I understand that it's been two or three years or whatever it's been. I'm not here to argue that point. My request is to allow us, and yes, I had three weeks to call Legislator Schneiderman, but I would like to be able to sit down with him, explain where we are, come up with some type of deadline. If it means that at the end of that deadline we don't have any concurrence from the regulatory agencies I come back before you folks, or Commissioner Chaudhry, whomever -- I guess it's Public Works, it would be me, and we'll explain where we are and what we have been up against. There's a great contingent within the regulatory agencies that believe to do nothing is better than to do something, and that to leave a creek alone, even if it is to the point if being blocked up, is better than for us to come in and dredge it. So this is part of the challenge that we are faced with, whether it takes us 30 days or six months, you know.

LEG. STERN:

Commissioner, you'll reach out to Legislator Schneiderman?

COMMISSIONER ANDERSON:

Yes.

LEG. STERN:

And be able to explain to him exactly what you've done during the past however long it's been, what you're in the process of doing right now, be able to assure Legislator Schneiderman and all of us, really, as to the steps that still need to be taken. What we can control, but what might be a realistic time period that we can expect from others, particularly the regulatory agencies, and how we can go forward in the fastest way possible. You'll be able to have that discussion with Legislator Schneiderman?

COMMISSIONER ANDERSON:

Yes.

LEG. STERN:

All right. Mr. Chairman, I'm going to offer a motion to table; we have a short cycle. So I myself will be looking forward to having that conversation with Legislator Schneiderman and see what he has to say after he has had the opportunity to meet with the Commissioner and where we go from there.

COMMISSIONER ANDERSON:

Thank you.

CHAIRMAN BEEDENBENDER:

Gil, could you please provide a copy of that draft to myself and other members of the committee as well. And if you could also, I know this is kind of you are trying to shoot at a moving target in some sense, but I share the concerns of some of my colleagues that it's been so long, and regardless of the reason of why it's been so long, it has been so long. So could you put together some sort of idea of timeline of when we can get this in place and maybe we can get these things going. And if you could get that to me as soon as possible because if that's not something that we as a committee find acceptable, I would -- I'm going to vote for this law because I'm frustrated that it hasn't been done. And as Legislator Romaine says, there are creeks in his district and Legislator Horsley's district and throughout that have not been addressed by this.

So please share the draft with Legislator Schneiderman, myself and the members of this committee. And please also put together -- give me something in writing that when this can get accomplished and if there is any assistance that can be provided by this committee, we would be immediate in our follow-up. But I would really like to see this move forward as quickly as humanly possible because three years is absolutely too long to wait, regardless of the reason.

COMMISSIONER ANDERSON:

Very good.

CHAIRMAN BEEDENBENDER:

All right. So there is a motion and second to approve.

MS. LOMORIELLO:

No second.

CHAIRMAN BEEDENBENDER:

No. There is a motion to approve without a second.

MS. LOMORIELLO:

There is a motion to approve and second.

CHAIRMAN BEEDENBENDER:

There is a motion to approve and a second. There is a motion to table which I will now second. That takes precedence. So we have a motion to table before us. If there are no further comments, all in favor? Opposed?

LEG. ROMAINE:

Opposed.

LEG. LOSQUADRO:

Opposed.

CHAIRMAN BEEDENBENDER:

Legislator Romaine is opposed and Legislator Losquadro as well. You are in favor of the motion to table?

LEG. HORSLEY:

Yes.

CHAIRMAN BEEDENBENDER:

Okay. We have two opposed; Legislator Romaine and Legislator Losquadro. Three in approval. So the motion -- the legislation is tabled. **(Vote: 3-2-0-0. Legislators Romaine and Losquadro opposed.)**

And, Gil, if you can get that to us as soon as possible.

IR 1462, Amending the 2009 Capital Budget and Program and appropriating funds in connection with alternative fuel infrastructure and compressed natural gas vehicles (CP 5602). (Co. Exec.). I'll offer a motion to approve.

LEG. ROMAINE:

Second.

CHAIRMAN BEEDENBENDER:

Seconded by Legislator Romaine. Legislator Stern.

LEG. STERN:

Thank you, Mr. Chairman. Mr. Commissioner, if we could just confirm once again that these are funds that are being taken from the Commack Road project, which is okay as those funds are no longer necessary for that project because that project is being paid for by Federal funds in full.

COMMISSIONER ANDERSON:

Correct.

LEG. STERN:

Thank you.

CHAIRMAN BEEDENBENDER:

Okay. And this is -- this would replace 15 CNG vehicles and retrofit 15 more?

MR. LAGUARDIA:

That's correct.

CHAIRMAN BEEDENBENDER:

Great. Fantastic. The one other question I had for to you, Tom, we've had several discussions in this committee about this sort of -- this very bill. Is this the first step of that CMAQ money we were talking about or we hopeful to get even more? Or is this something different.

MR. LAGUARDIA:

No, this is the CMAQ money. We have preliminary approval pending this resolution.

CHAIRMAN BEEDENBENDER:

Okay.

MR. LAGUARDIA:

And there will be one more resolution before you next month for some infrastructure that goes along with the CMAQ money.

CHAIRMAN BEEDENBENDER:

Okay. So this is what you were discussing with us. This is the 4.4 million and then they do some infrastructure. So this is what you have been telling us we are going to do?

MR. LAGUARDIA:

That's correct.

CHAIRMAN BEEDENBENDER:

Great. And the CMAQ, is that a yearly application or?

MR. LAGUARDIA:

It's a multi-year program which we are coming to the end of. This is the end of our money for 2009 and 2010. We will have the opportunity to go back and ask for additional funds in future years.

CHAIRMAN BEEDENBENDER:

For the next multi-year cycle. Okay. Legislator Losquadro.

LEG. LOSQUADRO:

Thank you. Is this infrastructure, what type of vehicles are we purchasing with this, is it retrofit, just to give us an overview.

MR. LAGUARDIA:

We are going to purchase 15 heavy duty vehicles for Public Works and retrofit gasoline or all the diesel engines with compressed natural gas engines.

LEG. LOSQUADRO:

How many do you anticipate you'll be able to retrofit?

MR. LAGUARDIA:

Approximately 15 as well.

LEG. LOSQUADRO:

Very good. Okay. And that is going to be -- because I just heard someone say infrastructure, and as far as I knew this was for the actual vehicles and the retrofitting.

MR. LAGUARDIA:

There's a small amount of money in the next resolution that you'll see that's also CMAQ money. We have to convert a couple of our garages to be able to pull the CNG vehicles in, not necessarily do repairs, because we'll have warranties and that will be done at the warrantee shop. But if we are going to change a tire or do anything else in our shop, we have to have certain infrastructure in our shop. So there is a small amount of retrofit that will happen in our shops. In addition, we plan to put in -- I think it's going to be six slow fill CNG stations for cars so when we get our cars we'll be able to fill them at the H. Lee Dennison Building, possibly here. We are looking at locations right now.

LEG. LOSQUADRO:

Very good. I'll talk to you more about the repair issues. I don't want to bore these folks with that, but I'm actually interested in that. We'll talk about that later. Thank you.

CHAIRMAN BEEDENBENDER:

Seeing that there are no further comments and no more business before us, we stand adjourned.

MS. LORMORIELLO:

You didn't call the vote.

CHAIRMAN BEEDENBENDER:

Well, we didn't vote on adjourning either. So all in favor of IR 1462? All opposed? Abstentions? IR 1462 is approved. **(Vote: 5-0-0-0).**

LEG. ROMAINE:

Please list me as a cosponsor.

LEG. LOSQUADRO:

Myself as well, please.

CHAIRMAN BEEDENBENDER:

I'll take a motion from Legislator Horsley to adjourn. I'll second it. All in favor? Opposed? Abstentions?

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

{ } Denotes spelled phonetically