

**RULES COMMITTEE
of the
Suffolk County Legislature**

Minutes

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A regular meeting of the Rules 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 **November 8, 2004**.

Members Present:

Legislator Allan Binder • Chairman
Legislator Michael Caracciolo • Vice•Chair
Legislator Andrew Crecca
Legislator Jon Cooper

Members Not Present:

Legislator William Lindsay

Also in Attendance:

Mea Knapp • Counsel to the Legislature
Alexandra Sullivan • Chief Deputy Clerk/SC Legislature
Ellen Martin • Aide to Legislator Binder
Nicole Wachler • Aide to Presiding Officer Caracappa
Ben Zwirn • Assistant County Executive

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Minutes Taken By:

Alison Mahoney • Court Stenographer

(*The meeting was called to order at 10:15 A.M. *)

CHAIRMAN BINDER:

Legislator Cooper, would you lead us in the Pledge?

Salutation

Okay, the meeting of the Rules Committee will come to order.

Is there anyone who wants to address us? I don't have any cards. Anyone want to address the committee? If not, we'll move right into the agenda.

1239•04 • Adopting Local Law No. 2004, a Charter Law adding Article XXXVI to the Suffolk County Charter to provide a Suffolk County Save Open Space (SOS) Fund (Caracciolo).

LEG. CARACCIOLO:

Mr. Chairman, I'd like to inform the committee that obviously as a result of last Tuesday's overwhelming support by voters, this resolution is no longer necessary so it is being withdrawn forthwith.

CHAIRMAN BINDER:

Withdrawn; okay, we'll ***consider it withdrawn.***

We'll move to ***1736•04 • Adopting Local Law No. 2004, a Charter Law consolidating the County's Affordable Housing/Workforce Housing Programs and Community Development Agency within the renamed Department of Economic Development and Workforce Housing (Presiding Officer at the Request of the County Executive).*** Let me ask Counsel if there are any questions on •• and then in light of the fact that we did the budget, where the budget stands, are there any legal questions as to how we can effectuate this change?

MS. KNAPP:

No, it's well within the purview of the Legislature to create a new department.

CHAIRMAN BINDER:

Okay. Is there a motion to report?

LEG. COOPER:

Motion to report.

CHAIRMAN BINDER:

Motion by Legislator Cooper, second by Legislator Losquadro.

Are there ••

LEG. LOSQUADRO:

(Inaudible).

CHAIRMAN BINDER:

Though the Rules Committee was hit a little bit by Mr. _Keeler_ at Newsday for holding this up, I think it was the right thing to do at this point. We know where the budget stands, we know how it will be treated in the budget and there isn't a problem for us to be dealing with this on the floor next week in light of where we know January is going to look. So we have a motion and a second. All those in favor? Opposed? **1736 is reported out (VOTE: 4•0•0•1 Not Present: Legislator Lindsay).**

1693•04 • Adopting Local Law No. 2004, a Local Law to require defibrillators in summer camps (Caracciolo).

LEG. CARACCIOLO:

Motion to report.

CHAIRMAN BINDER:

Motion to report by Legislator Caracciolo, second by Legislator Losquadro. Is there any question and legality on our ability to require this in summer camps?

MS. KNAPP:

It's very similar to defibrillators in the health clubs which the Legislature successfully passed.

CHAIRMAN BINDER:

Right. We have a motion and a second. Any comments? If not, all those in favor? Opposed? **1693 is reported out (VOTE: 4•0•0•1 Not Present: Legislator Lindsay).**

1737•04 • Adopting Local Law No. 2004, a Local Law to amend Local Law No. 18 •1994, to strengthen disclosure requirement for real estate transactions (Schneiderman).

LEG. CARACCIOLO:

Motion to report.

LEG. COOPER:

Second.

CHAIRMAN BINDER:

Motion to report by Legislator Caracciolo, second by Legislator Cooper. Is there any questions on legalities for us to do this?

MS. KNAPP:

It's modifying the County's procedures.

CHAIRMAN BINDER:

All those in favor? Opposed? ***1737 is reported out (VOTE: 4•0•0•1 • Not Present: Legislator Lindsay).***

1811•04 • Adopting Local Law No. 2004, a Charter Law to modify the Traffic Safety Board (Presiding Officer Caracappa).

LEG. LOSQUADRO:

Motion.

LEG. COOPER:

Second.

CHAIRMAN BINDER:

Motion by Legislator Losquadro, second by Legislator Cooper.

Any questions on this modification?

MS. KNAPP:

No, there shouldn't be.

CHAIRMAN BINDER:

All those in favor? Opposed? ***1811 is reported out (VOTE: 4•0•0•1 • Not Present: Legislator Lindsay).***

1864•04 • Adopting Local Law No. 2004, a Charter Law to mitigate County liability by expanding prior written notice of defective condition requirements (Presiding Officer at the Request of the County Executive).

LEG. CARACCIOLO:

Explanation.

CHAIRMAN BINDER:

If Counsel can •• this has been around for awhile, a long time in fact.

MS. KNAPP:

This is a Charter Law that would substantially tighten the requirements of written notice prior to a plaintiff being able to successfully bring an action against the County. It basically ••

CHAIRMAN BINDER:

Makes it harder.

MS. KNAPP:

Yeah, it covers everything. It makes sure that you've got to give notice of absolutely everything, it also gives the County 30 days basically to get it fixed.

CHAIRMAN BINDER:

What you mean is the plaintiff, someone who is going to make a complaint against the County, has to give an incredible list of notice before they're able to bring an action against the County.

MS. KNAPP:

And further, you can't bring an action less than 30 days after the notice, it gives the County an opportunity to get the defective condition fixed.

CHAIRMAN BINDER:

Do we have a motion? Motion by •• do we have a motion at all to report?

LEG. LOSQUADRO:

I will make a motion.

CHAIRMAN BINDER:

Motion by Legislator Losquadro. Is there a second?

LEG. COOPER:

Second.

CHAIRMAN BINDER:

Second by Legislator Cooper. Obviously this has been kicking around so there's not a legal defect, it's just, in a sense, a question as to how difficult we want to make it for people to bring an action against the County. And while I •• you know, I don't know that I'm going to support this on the floor, my concern is not giving us the 30 days, that's probably good, but there are other things that make it very hard for someone who would normally have the right to bring an action against the County. It might make it too hard for someone who has a reasonable claim, so I'm concerned about that. But we have a motion and a second to report. All those in favor? Opposed?

1864 is reported (VOTE: 4•0•0•1 Not Present: Legislator Lindsay).

1934•04 • Adopting Local Law No. 2004, a Local Law to streamline conveyance of real property transactions (Lindsay). Maybe we can get an explanation on that one, too.

MS. KNAPP:

This is regarding the 215 transactions. Our code requires that before the Legislature consider a 215 transaction that it be approved by a committee consisting of I believe a representative of the County Executive, a representative for the County Attorney I think.

LEG. LOSQUADRO:

(Inaudible).

MS. KNAPP:

Right. The committee, it's been on the books since some time in the 80's. When I first came here I immediately saw it and asked about when the committee met and was advised that, you know •• so that its in the 215 transaction.

CHAIRMAN BINDER:

There's a Local Law.

MS. KNAPP:

So that it seemed like the logical thing to do, since it wasn't being held anyway, is to eliminate it from the code and Legislator Lindsay offered to sponsor that.

CHAIRMAN BINDER:

Motion to report by myself, second by Legislator Cooper. All those in favor? Opposed?

LEG. CARACCIOLO:

Abstain.

CHAIRMAN BINDER:

Abstention by Legislator Caracciolo. 1934 is reported. Let me see, we have ••

LEG. CARACCIOLO:

Change my vote to a yes, I'm sorry, Allan, I'm thinking of something else.

CHAIRMAN BINDER:

Okay. 1934 is reported (VOTE: 4•0•0•1 • Not Present: Legislator Lindsay).

1981•04 • Adopting Local Law No. 2004, a Local Law to update Suffolk County Living Wage Law (Bishop). Why don't we talk about how we're going to •• or get an

explanation as to how we're updating this.

MS. KNAPP:

Most of the changes in this one were language changes and there have been any number of those kind of language changes where beneficiary was changed to recipient and assistants changed to compensation which were not substantial changes. There was one substantial change in it, this was requested by the department and Legislator Bishop sponsored it, it had to do with the ability •• yes. The financial assistance, it made a change for child care providers that their living wage be no less than \$9 per hour with or without benefits or no less than seven seventy •• and no less than 7.75 should be attributable to non•benefit employee contribution. There had been some omissions from the private •• from the prior law.

CHAIRMAN BINDER:

So there's a carve•out just for child care.

LEG. LOSQUADRO:

Mr. Chairman?

MS. KNAPP:

Child care, uh•huh.

LEG. CARACCIOLO:

It's less than the ••

CHAIRMAN BINDER:

It sounds a lot less than the law for everyone else.

LEG. LOSQUADRO:

Mr. Chairman, if I may?

MS. KNAPP:

It also made it ••

CHAIRMAN BINDER:

After we get the explanation.

LEG. LOSQUADRO:

No, I was just going to make a point to Counsel. Do I recall correctly that the reason that we discharged this without recommendation from Ways & Means, one of the concerns was that we are currently subsidizing child care providers to comply with the Living Wage Law and that this would •• basically we would just be further subsidizing many of the child care providers.

MS. KNAPP:

There was one other change of substance and you've touched on it. Instead of just child care providers that are going to be eligible for financial assistance, it's now been changed to not•for •profit corporations.

CHAIRMAN BINDER:

When you say financial assistance, you're talking about the contingency funds; in other words, over and above?

MS. KNAPP:

The living wage contingency fund, yes. So that was another change of substance.

CHAIRMAN BINDER:

Now, Legislator Losquadro, I guess in the committee you were saying there was a question as to double subsidization; was that a question of law or is that a question of policy concern?

LEG. LOSQUADRO:

A question of policy concern, Mr. Chairman. Again, as you said earlier, I do not know if I will support this on the floor, but if someone would make a motion to report it out I would most likely support that.

CHAIRMAN BINDER:

Right, and I would have the same problem at this point. As members know that were here, I wasn't interested from the beginning in this law, and all the changes have just helped me, have basically backed me up, all the changes that we've needed to fix this thing. There's been a stream of changes and it's still not fixed and we've lost •• well, I don't want to go into it now. Anyway ••

MS. KNAPP:

Just so the record is complete, the one other change of some substance is that it used to be that the chapter didn't apply if you earned 16,650 with health benefits or 18,962 if there were no health benefits. That's been deleted and now the threshold is employees are earning at least 23,660.

CHAIRMAN BINDER:

Wait a minute; if their •• threshold for what?

MS. KNAPP:

It doesn't apply if you earn 23,660.

LEG. CARACCIOLO:

The living wage.

CHAIRMAN BINDER:

Right.

LEG. CARACCIOLO:

Twenty•three thousand is not a living wage, not in Suffolk County.

LEG. COOPER:

I'll make a motion to report.

CHAIRMAN BINDER:

Motion to report by Legislator Cooper. Is there a second? If there's no second it won't be reported out today, it will be back on the agenda at the next meeting. Sense 72 ••

LEG. COOPER:

Just through the Chair, is there an explanation why no one is willing to second the motion to report? If there are no legal questions and you're not concerned about just keeping a logjam on the agenda.

MS. MAHONEY:

Can you use the microphone, please?

LEG. COOPER:

Just for my own edification, I thought according to the rules of the Rules Committee ••

CHAIRMAN BINDER:

There's no rules, but I understand. What we're trying to do, in other words, the general idea of what we were trying to do here, yeah.

LEG. COOPER:

I mean, I report bills out of committee all the time that I know I'm going to vote against, so everyone •• I know that you all have some serious concerns, but this is something that we should be reporting out of committee.

CHAIRMAN BINDER:

And I •• and if it were on the floor I'm sure I would vote against it. And if, as Legislator ••

LEG. COOPER:

So then allow it to go to the floor and vote against it.

CHAIRMAN BINDER:

As Legislator Losquadro said, if there was a motion and a second then I would vote for it to be reported, but I am not willing to be the one to report a bill, to report this bill out personally. I'm not going to make the motion or the second, if there's a second then I'll vote for it and if there is no second then we'll have to do it at the next meeting or pick it up again. There's no motion, no second.

We'll move on to ***Sense 72•2004 • Sense of the Legislature resolution requesting the New York State Legislature to amend the Suffolk County Tax Act to allow waiver of penalties and interest for brownfields property (Bishop).***

LEG. CARACCIOLO:

I have a question for Counsel.

CHAIRMAN BINDER:

Question, Legislator Caracciolo.

LEG. CARACCIOLO:

Counsel, under existing law, does the County government have any jurisdiction to waive interest and penalties on brownfield properties?

MS. KNAPP:

No.

LEG. CARACCIOLO:

Okay, thank you.

CHAIRMAN BINDER:

Do we have a motion or a second, a motion to report? No motion, no second, we'll move on to ..

LEG. COOPER:

I'll make a motion to report.

CHAIRMAN BINDER:

Motion to report, Legislator Cooper. Is there a second? Legislator Losquadro is handling the microphone.

LEG. LOSQUADRO:

No, I just wanted to clarify the point that Legislator Caracciolo just made, that the County .. I'm sorry, if you could just repeat that, please?

LEG. CARACCIOLO:

You cannot allow waivers.

CHAIRMAN BINDER:

No, we're asking for New York State to do it.

MS. KNAPP:

This is a Sense asking them to amend the Suffolk County Tax Act so that we could allow waivers of penalty and interest for brownfield property.

CHAIRMAN BINDER:

We're asking New York State •• this would be asking New York State to allow us to waive interest and penalties for brownfields property.

LEG. LOSQUADRO:

I'll second the motion.

CHAIRMAN BINDER:

We have a motion and a second. All those in favor? Opposed?

LEG. CARACCIOLO:

Opposed.

CHAIRMAN BINDER:

Opposed, Legislator Caracciolo. ***S72 is reported (VOTE: 3•1•0•1 Opposed: Legislator Caracciolo • Not Present: Legislator Lindsay).***

Sense 73•2004 • Sense of the Legislature resolution requesting the State of New York to increase funding for education, research and treatment of congenital heart defects (Bishop). I will make a motion to report, second by Legislator Cooper. All those in favor? Opposed? ***Reported (VOTE: 4•0•0•1 Not Present: Legislator Lindsay).***

Sense 74•2004 • Sense of the Legislature resolution requesting the Federal and State government to provide policy and funding to ensure election integrity to secure the right to vote for all citizens (Bishop).

LEG. LOSQUADRO:

Explanation, please.

CHAIRMAN BINDER:

Explanation. Well, this is probably a lot more moot since the election and, you know, all the

questions that I think at least one party was trying to raise to talk about disenfranchising it when it wasn't going to and didn't happen, but I guess this is about New York State having disenfranchisement which didn't happen and really doesn't happen here in New York State, but go ahead; Counsel.

MS. KNAPP:

No, there is a Federal law, HAVA, Help America Vote Act ••

CHAIRMAN BINDER:

Right.

MS. KNAPP:

•• that, you know, if it's not amended or rescinded does require certain electronic voting machines, that there is a lot of, you know, conversation bordering on controversy, it's going to be very expensive if we have to go to that. And this Sense Resolution asks, you know, either the State or the Federal government to provide the funding if we're going to have to do it.

CHAIRMAN BINDER:

Okay, I guess we can go for it. But that is •• I mean, it's unfortunate. It would seem to me in Suffolk County, though we have these analogue machines, has very accurate faux counting. I know people who have been involved in it at all ends are not complaining, there's no disenfranchisement. We've gone to electronic sign•in so we have a very efficient way of very quickly creating the abilities ••

LEG. CARACCILO:

Motion to report.

LEG. COOPER:

Second.

CHAIRMAN BINDER:

Second, we have a motion and a second.

MS. KNAPP:

In the interest of full disclosure, though, it does say that the County opposes the mandates imposed by HAVA. And it also says that in the event we must qualify then it has five guidelines that he asks be followed, you know, they talk about testing and being physically secure.

CHAIRMAN BINDER:

Well, I'll take a look at it before it's on the floor, I might have a question with that. All those in favor? Opposed? ***Sense 74 is reported out (VOTE: 4•0•0•1 Not Present: Legislator Lindsay).***

Is there any other business coming before the committee? Did you need to know the motion and the second on that?

MS. SULLIVAN:

Yes.

CHAIRMAN BINDER:

The motion was Legislator Caracciolo, second by Legislator Cooper.

Okay, anything else coming before the committee? None other? Motion by myself, second by Legislator Caracciolo to adjourn. All those in favor? Opposed? We are adjourned.

(*The meeting was adjourned at 10:32 A.M.*)

***Legislator Allan Binder, Chairman.
Rules Committee***