

**WAYS AND MEANS COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE**

Minutes

A meeting of the Ways and Means committee of the Suffolk County Legislature was held at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, NY 11787 on Monday, **March 11, 2002** in the Rose Y. Caracappa Auditorium at 1:30 P.M.

Members Present:

Legislator George Guldi, Chairman
Legislator Allan Binder, Vice Chairman
Legislator Ginny Fields, Member

Members Absent:

Legislator Fred Towle, Member

Also in Attendance:

Paul Sabatino, Counsel to the Legislature
Thomas Isles, Suffolk County Planning Department
Jim Burke, Suffolk County Real Estate
Tom Donovan, Aide to Presiding Officer Tonna
Todd Johnson, County Executive's Office
Jim Spero, Budget Review Office
Stephen Raptoulis, Chief Deputy Commissioner Suffolk County Parks
Lee Snead, Self
Arlene Forward, League of Women Voters
Marian Zucker, Director of Suffolk County Affordable Housing
David Grier, County Attorney
Lee Lutz, Campaign Finance Board
Legislator Cameron Alden, District #10
Wil Snyder, Baker Engineers
Tim King, Cable & Wireless
Roy Carryer, Alcatel
Vincent Pizzulli, Attorney for Alcatel/Cable & Wireless
Wayne Thompson, Suffolk County Real Estate
Christine D. Costigan, Public

Phil Bauccio, Suffolk County Risk Management & Benefits
And all other interested parties

Minutes taken by:

Eileen Schmidt, Legislative Secretary

(The meeting was called to order at 1:40 P.M.)

CHAIRMAN GULDI:

We'll open with a salute to the flag to be led by Legislator Binder followed by a moment of silence.

SALUATION

CHAIRMAN GULDI:

A moment of silence to reflect on the memory of those lost in the September 11th attack on the World Trade Center.

MOMENT OF SILENCE

CHAIRMAN GULDI:

We will need to wait for the third Legislator to arrive before we entertain resolutions. It is permitted for us to be in taking testimony at the present time. I have a number of cards and they're not numbered so I'll call them in the order they were presented to me. The first card is Lee Snead, Esquire, regarding 1041 and 1042. Would one of you get agendas for Legislator Binder, Fields and it might be nice if I had one.

MR. SNEAD:

Good morning, members of the committee.

CHAIRMAN GULDI:

You need to put the mike and you need to put it right in front of you in order for the stenographer to be able to tape the proceedings. Good morning, Mr. Snead.

MR. SNEAD:

Thank you, Legislator Guldi. It is my understanding that these two resolutions have been withdrawn; is that correct?

CHAIRMAN GULDI:

I've been advised by the Director of Planning Division.

MR. SNEAD:

Are these two resolutions withdrawn permanently such that a new application would have to be made in the event someone was to go forward or are they in suspension?

CHAIRMAN GULDI:

I do not know why the sponsor of the resolutions the County Executive has chosen to withdraw them; that's solely his prerogative. I did not ask for an explanation and none was proffered. I do know that this committee raised a broad array of questions and concerns about this proposed transaction and I

don't know that they're -- I don't know if there was any support for this resolution whatsoever.

LEGISLATOR BINDER:

I think the point Mr. Chairman is that if they were actually withdrawn they can't be considered again unless they're actually resubmitted as resolutions. There's no suspension when a resolution is withdrawn it cannot be considered at all. It basically, doesn't exist as a resolution and we can only consider when another resolution's put forward.

MR. SNEAD:

Well, the point being I don't want to -- you got a lot of things you need to do today and everybody's time is busy and I don't want to sit here and take up your time discussing a matter that can't be decided. If there is some way that this -- that my comments here regarding some of your questions and I've reviewed the minutes of February would be helpful to you and this would come back up I'd be happy to do so.

CHAIRMAN GULDI:

Well, the resolutions while being withdrawn it's not a determination that can be refiled and resubmitted. If you have comments to put on the record I'd invite you to please do so and let us know what you'd like to add to the record in the event that these ever do come back then your comments will already be part of the records. In fact, if your comments could satisfactorily explain some of the concerns and misgivings that were articulated at the previous meetings of this committee on this issue it might have some bearing on the question.

MR. SNEAD:

Okay. With that said then I'd be happy to do so. First off, I represent both Stephanie Caravolos and Mr. Lou Messina who are the applicants for the direct sale of the two parcels in question. These are on River excuse me, Sunset Lane in Patchogue; they border the Great South Bay or at least the river leading into Great South Bay and therefore, waterfront parcels. Each parcel is 60 feet frontage with 186 feet depth; they are located in a zoning area, which requires 100 feet of frontage for an individual lot. So both parcels are slightly over -- each parcel I should say is slightly over a quarter acre in size. My clients wish to add these two parcels to each of their properties respectively. They wish to do no development on this property. I believe they have even covenanted or agreed to covenant to that affect. Their purpose for doing this is (A) to widen their property a bit and create an area that is less -- is free of garbage which is the situation as it's stands today and quite frankly to prevent another house from going in next to their property. My understanding of the geographic location of this lot is that it is in a FEMA flood velocity zone. It is also, excuse me, I should say lots. They're in flood velocity zones which means any construction that has to occur on these properties has to meet FEMA standards for not only generalized flooding, but for flooding with velocity.

Furthermore they have to -- they are in a hydro geologic zone six, I believe,

which requires 40,000 square feet of area in order to obtain a Suffolk County Health Department septic permit. There was a significant discussion of the potential for selling these properties for development purposes as a benefit to the public under your board's fiduc-- the Legislature's fiduciary responsibilities. I submit that that is probably -- is problematic at best because both parcels are currently sub-divided --

CHAIRMAN GULDI:

With respect to the sub-division argument one of the key flaws in the legislation that raised concern here is under the doctrine of merger of title there are no two lots; County owns both there's one. It's 125 feet of road front and as a single lot I believe your client or one of your clients at least said it was worth at least 75 or \$80,000. Under Local Law 13 we are prohibited, prohibited from entertaining a Local Law 13 for parcels with a market value in excess of \$20,000. By indulging in the fiction that the lots are not merged and that there are two lots there is an attempt to circumvent that (substitutive) legal requirement. I have questions pending both real estate and Counsel to dress that issue. You want to give it a shot?

MR. SNEAD:

Your question on merger of title?

CHAIRMAN GULDI:

Since --yeah, on there being one lot, two lots.

MR. SNEAD:

Okay. The answer I would give you is that (A) the present situation is that these two lots are sub-divided. They are separate standing individual lots.

CHAIRMAN GULDI:

Owned by the same owner.

MR. SNEAD:

Owned by the same owner. However --

CHAIRMAN GULDI:

And adjacent.

MR. SNEAD:

And adjacent, however, the Village of Patchogue has no merger statute and the doctrine of merger only applies when a lot is substandard in size and the municipality has a merger statute. Therefore, these lots remain separate and distinct. Now that is not to say that the County of Suffolk at some point in the future could petition the Village of Patchogue to merge these lots voluntarily. However, I don't see why the County of Suffolk would intend to do that when the intended or at least my understanding of the intention of the (inaudible) plans to handle lots of this type is to keep them forever undeveloped. That's exactly what my clients intend to do here; they intend to keep this waterfront property undeveloped. There are many reasons for doing that to them and there are many reasons why it's beneficial for the

County to do that. The first one is that as I said before to obtain septic system approval here one will need a variance from the Suffolk County Health Department. These lots are waterfront; any septic system that goes in there has a potential for harming the Great South Bay. Admittedly, not to any great extent over, you know, when you look at the number of houses that are on the waterfront, but this County and the State have a well stated purpose of trying to minimize damage to the Great South Bay and the South Shore Estuary.

Secondly, any, any septic system that goes in this place will have to be above ground and concreted. You end up having to fill in the property to do so because of the depth water issue which means you now have a very high property or a very high house on top of a septic system; that septic system is now within a flood velocity zone which is going to be problematic from FEMA standpoint. Anybody attempting to purchase this piece of property and build on it, and mind you it's a very small piece of property, will have to deal with those issues and deal with getting insurance in an area where they might not meet Federal FEMA standards anyway because their septic system would be a hard structure in a velocity zone. I respect that there are questions and to the extent that there are questions those questions should be answered most particularly by the Real Estate Division. It seemed in reviewing the minutes that there was a question about the appraisals and whether the appraisals were accurate, that I cannot attest to. I have no knowledge that I haven't seen appraisals; I presume that the County of Suffolk hiring qualified and certified appraisers from their list would obtain accurate appraisals.

So I go back to the situation at hand, we have two separate and dist – separate and single lots. These lots remain separate and single; my clients have sought to purchase them from the County under the County's laws. Those approvals at least here to fore have been green lighted at least by the Real Property folks and so we appear here. I'm not trying to debate the issues I'm simply stating the situation as I see it aside from the fact that my clients have waited two years. Have had \$7500 each of their money with the County waiting for the approval here; it seems that having been pulled by the County Exec's Office for whatever reason and I'm sure they had their good reasons to do so is problematic at this time and you can understand that my clients are somewhat upset. However, they're willing to work with the County anyway they can. If there is another reason for the intent on the County's part to keep the property we'd be happy to address that as well, but like I said my clients have covenant it or agreed to covenant it the properties that they would remain undeveloped. And I think that's in the best interest of the County, it's in the best interest of the local community and it's in the best interest of my clients to do so.

CHAIRMAN GULDI:

The one concern that I've – overriding concern that I've had assuming that your clients own \$75,000 value for the two parcels merged as a building lot and that in that neighborhood was accurate the purchase price the aggregate purchase price of \$15,000 does confer a private benefit in a form of fee ownership on your clients to the tune of \$60,000 depriving the taxpayers of

Suffolk County who we are fiduciaries of, of that value. Granted the non-development of a parcel is of some value, but the price of the parcel is undeveloped granted with its development rights intact. But the discernable public benefit of creating, if you will, a private park is (diminimus) in my opinion as one Legislator and can't be compared with a true public benefit park with public access. There being no public access I do not see a way to down value the properties to such an extent that a transfer under Local Law 13 becomes lawful and if you can address those concerns I'd like to hear what you have to say.

MR. SNEAD:

First off, you talk about down valuing the parcel; the parcel's value has been set by the County. That value is \$15,000 for both parcels. My clients have paid that value; now aside from the fact that we may disagree about the doctrine of merger and that's something that your Counsel can address with you and if ultimately the County decides that that doctrine applies here you may well decide that it's a decrease in the value that you're receiving for the County to sell the parcels. However, what I'm hearing here is an issue of public access to the waterfront, which that's something that my clients could discuss. I have not talked about that with them; they have henceforth, you know, heretofore been very willing to deal with the County and covenanting the property is entirely possible and I say possible, again, I haven't spoken with them, but they would be willing to create some form of an easement over the parcels. It's entirely possible that they might be willing to deed back a way of egress and ingress for the County or for the benefit of the public. I don't know that yet; those are certainly something -- it's something that can be discussed, however, to get back to what we -- where we started on this there is no public, -- there is no gift of public funds or gift of public land here and it's not the creation of a private park. This is the addition of pieces of property to existing developed real property which is fully within the rights and regulations of the County of Suffolk to do and we suggest my clients have exercised those rights accordingly and relied in good faith on that.

CHAIRMAN GULDI:

With respect to one point you did make as to the County setting value I do beg to clarify. The County has not set the value of those parcels. The County has engaged the services of appraisers who have recommended the value, which is suggested, to this legislative body. If we don't accept the value then it's not set by the County and we have not done that.

MR. SNEAD:

I fully understand that until you decide to move forward with the sale any value on the property is in the air sought to speak, however, it's again my understanding that those appraisers are retained by the County in regard to their expertise of doing appraisals of real estate and that those appraisers have come up with that value. Whether you choose to accept it or not I fully understand it's your prerogative. We're simply suggesting that it would appear from past practice and understanding that the County does things in good faith that these would be accurate appraisals.

CHAIRMAN GULDI:

The – with respect to the suggestion that we – that this was a fairly routine application I think at the time this came over there were five in the packet. These two and three others, of those one got approved the other four were sent back for further analysis of public benefit. With respect to the valuation issue I as Chairman requested additional evaluation work because of the dissatisfaction I had with the information that was provided with the original resolutions.

MR. SNEAD:

And I understand that and acknowledge the fact that quite probably you need more information from the Division of Real Estate to satisfy yourself on the issue. Again, we find ourselves here me making an argument for my clients in the face of a non-resolution it's tough for me too because I would certainly have liked to have seen that information as well.

CHAIRMAN GULDI:

Yeah, that's given the fact that the resolutions were withdrawn before you began to make your comments it does put you in kind of a heavy lift since you – since there's nothing before us we can vote on.

MR. SNEAD:

Yeah. Again, for the purpose of creating the record and hopefully reviewing this again in the future, you know, I think this is a worthwhile effort. My clients are not looking to, you know, obtain a piece of property with the idea of developing it. They're not looking to create some form of personal benefit all out of proportion to the value that they're paying. They're looking to protect their property certainly and they're looking to clean up two empty lots that are somewhat in disrepair and have locally been used as a dumping area. Again, they've relied on the process as the process is stated. They've paid into escrow the fee to do so; I would hope that the committee here could use whatever good officers it has to persuade the County Exec. to at least put the matter back on before you so that we can could develop the record further and decide whether or not there's a potential for sale here.

CHAIRMAN GULDI:

Well, that would be a matter that you would have to take up with the County Executive and his representatives.

MR. SNEAD:

And knowing the good works that the County Legislators do I'm sure that this committee would be happy to make that inquiry of the County Exec. and see if that's possible.

CHAIRMAN GULDI:

Are there any questions? Thank you.

MR. SNEAD:

Thank you very much. A pleasure to be here.

CHAIRMAN GULDI:

Lee Lutz, you're up next. Wil Snyder is the next card I have after that.

MR. LUTZ:

Good afternoon, Chairman Guldi and Legislators, Counsel Sabatino. I have just a couple of brief comments. I don't think I'm going to take up much of your time at all unless you start asking questions. I wanted to address the committee on two matters that are before you today. The second first that is IR 1252, a proposed Charter Law changing the date that's part of the Campaign Finance Reform referendum that was passed by the voters back in 1998. The board has discovered what appears to us to be a error typically referred to as a sribners error in the law in that it sets a unrealistic and in many cases impossible deadline for candidates who might want to participate in the program from applying to participate at all. That deadline says that a candidate must file for participation in the program by April 1st or 10 days after filing the paperwork for a committee to run for election which ever occurs first. That's grossly unrealistic in the real world in that very often candidates aren't even nominated until May or June and since April 1st is already passed if they wanted to participate they couldn't. I don't believe that that was intent of the law and, in fact, changing one work wish is the proposal from which ever occurs first to which ever occurs last is all that has to be amended in order to make the law make sense.

My concerns specifically is that this measure has to go to a referendum; it seems to me totally unrealistic and defies common sense that something as simple and obvious as this would be required to go to referendum. It just doesn't make any sense not to make the change and it seems to me that this Legislature should have the authority to correct what appears to be an obvious error in order to make the law make sense. So basically, my remarks are aimed at Legislative Counsel Sabatino as to whether he would advise the Legislature that, in fact, this is indeed has to go to a referendum or whether it can be treated as a common sense matter and a correction of an obvious oversight or error on the part of the original authors of the bill. So those are my comments on that and would appreciate response. And hearing none I will address the second issue.

MR. SABATINO:

I'd be happy to answer the question; the Chairman was asking me a simultaneous questions. I apologize.

MR. LUTZ:

I'm sorry I didn't realized.

MR. SABATINO:

The answer is it must go to referendum because the last section of the law that adopted the underlining legislation said that anything to amend that law must go to referendum. I don't know that it was an oversight or error because this language was redone over several -- over several different

statutes. I mean, it didn't change from statute to statute to statute. It was that way from item number and I'm certainly in no position to say that Legislator Levy intended something different, but be that as it may the bottom line is that the statute itself that was adopted by referendum requires a referendum to make a corresponding change.

MR. LUTZ:

So you seem to be saying that if an error was made and then overlooked any number of times it can't be corrected without going through that whole nine yard routine of going through a referendum.

MR. SABATINO:

No, it can be corrected, but you prefaced your comments by saying that you had some insight or knowledge as to what the date actually should have been. I'm just contradicting the point that you made because I don't believe that to be the case. If it was all that obvious I think that sometime between 1993 time of the original legislation to the current date which is 2002 that would have been brought to somebody's attention someplace along the way; because Legislator Levy filed a lot of these copies of the bill. But it's irrelevant, okay. I was just dealing with that irrelevant point to put it aside whether you like the date or don't like the date or like the analysis or not the law that was adopted by the electorate says to change that law you much go back to another referendum.

MR. LUTZ:

Obviously, I accept that, the board accepts that and we've made our point and for what it's worth it's on the table. Let me switch topics to the second issue before you today which is IR1204 having to do with significant amendment to the law as opposed to the one we were just talking about. It is my understand from several people and organizations I've heard from that there will be some significant degree of input regarding this matter at the public hearing which has been scheduled on this measure next week. So it is my position here simply to be available to answer your questions at this point if you have any and to advise you that significant input from the public I believe will be made available to the Legislature -- presented to the Legislature at it's public hearing on the 19th. If you have any questions I'll do my best.

CHAIRMAN GULDI:

Oh, I'm sure they'll be questions during and after the hearings after public hearings on the issue.

MR. LUTZ:

Okay. Then obviously, we will be available at that point. Also after those have had an opportunity to present input regarding this measure to the Legislature have been done. Thank you very much.

CHAIRMAN GULDI:

Wil Snyder -- T. S. King is one of yours? Vince Pizzulli, that notorious troublemaker. Lets take Reina Caceres.

LEGISLATOR FISHER:

Mr. Chairman, Legislator Alden asked me to attend today's meeting because Mrs. Caceres is not completely fluent in English so if she needs any help I'm here to assist her.

LEGISLATOR ALDEN:

Thank you Mr. Chairman and thank you Legislator Fisher for coming down. I'm going to just try giving you a brief overview on this; so it's resolution #1092 where we're asking for forgiveness for some of the penalties and interest on non-payment of taxes. Basically, and I'll try to do the short story on it. I believe that Mrs. Caceres was a victim of fraud at the closing. There was misrepresentation and things like that, but I'm trying to get her along with a couple of other attorneys to take care of that and I've given her some of the names in the referral for the Suffolk County Bar Association. But basically, the part that should interest us and we should look at is the fact that when Mrs. Caceres took the deed to the property it was recorded out in Riverhead, she never received any notices from either Suffolk County or the Town of Islip for the taxes due on this. They were sent to an improper address and I think that part of the story is that the parcel that she bought at one time had been part and parcel of a larger piece the owner retaining the front parcel and she bought the back with the house on it. And again, no notice was ever sent to her. We don't have documentation and that's why it's not really in the -- in this resolution because we couldn't get a letter from the Town of Islip at this point or from Suffolk County that would indicate that they had sent it to the wrong address, but again, Mrs. Caceres is here if you have any questions or clarifications on it you'd like answered.

CHAIRMAN GULDI:

The question I have -- have you managed to get a hold of any closing papers, the equalization forms that were filed at the closing and the like?

LEGISLATOR ALDEN:

I haven't gotten those, but I could ask her to bring them in.

CHAIRMAN GULDI:

Cause, I mean, the Country record comes off the equalization form and the mail that we mail tax bill to the return mail is retained in the Treasurer's Office in Riverhead. I've gone through the archives and looked through the old boxes and found items quote unavailable and we couldn't locate in the past that's why I asked that.

LEGISLATOR ALDEN:

Mrs. Caceres did have a conversation with somebody in the -- out there in the Riverhead Office either the Clerk's Office, but if you want her to answer that directly.

LEGISLATOR FISHER:

(Speaking Spanish)

MRS. CACERES:
(Speaking Spanish)

LEGISLATOR FISHER:
(Speaking Spanish)

MRS. CACERES:
(Speaking Spanish)

LEGISLATOR FISHER:
(Speaking Spanish)

MRS. CACERES:
(Speaking Spanish)

LEGISLATOR FISHER:

Okay, she said she does have her closing documents and that she could bring them to Legislator Alden's office for him to review them. Is that basically what the question is?

LEGISLATOR ALDEN:

If you could ask her just to relate the conversation she had with the people in Riverhead.

LEGISLATOR FISHER:
(Speaking Spanish)

MRS. CACERES:

One day I went to Riverhead Office for something else for certify the (inaudible) not be relation for the property and I ask them something about I would like to get copy for the deed for the property and they can't find it because it no my address in their list and when I ask him and they look in and I give you my social security and they find out, you know, its my in my property on my name and that's the time when the peoples there me you know and I have I have to go pay the taxes and I say I can't even know nothing about it. I believe the mortgages, you know, the taxes included with the mortgage and they say I ask and they send in some papers they say they send it, but I can't even know what I don't get the papers and I ask them what address they put it on and they put in the other what the same person he sold the is the person he (inaudible) to me. He put in his address and that's the reason I never get the papers because he's getting and his address. And that's the reason I can't even know that's my situation in this time because I don't receive any papers and I believe I pay my mortgage and the taxes is include.

LEGISLATOR FISHER:

Actually, I think I'm superfluous her English is fine.

CHAIRMAN GULDI:

Do you want to limit the context on that remark? The taxes of \$12,243.53 the two-year penalty interest and penalty is \$3,948. The waiver amount request amount is \$40 different than \$3,908. So it's -- those are the numbers.

LEGISLATOR BINDER:

Do we have anything showing the documentation of where they actually sent the bills? Do we -- they must have something listed at the Treasurer's Office; somebody has something listed as to where or the Receiver of Taxes -- I mean, somebody had something listed somewhere.

LEGISLATOR ALDEN:

Did they have anything at the Treasurer's Office -- it's indicated by Mrs. Caceres that they're still sending the tax bill to the original owner of the property and I was not able to get anything from Islip admitting that it was a governmental error as we normally have to deal with the resolution if we want to fall within the exceptions of the (inaudible).

LEGISLATOR BINDER:

Mr. Chairman, I mean, this is obviously happened before in the past where the bill has been sent to the wrong place and the question is is it really governmental error? This is kind of a rehash an old discussion is one sense it is because we should know where to send the bill. We should send it to the proper place. On one hand it isn't because they should know to pay their bill whether they get a bill or not; whether they're still -- they should still be paying their taxes or know to inquire because you have to pay your taxes and the responsibility to know whether it's in your mortgage or not is kind of (inaudible) you have to look at your escrow and see if there's anything for taxes and it's pretty clearly stated on the mortgage whether you're paying taxes or not. We weighed both ways and it's -- but I do know in the past where there have been bills sent to wrong addresses we have given the waiver in those instances. So in some sense it meets some standard that government has some responsibility if not a legal one, but maybe just on a bureaucratic level they have some kind of responsibility to get the right information to the right places and that no one should be working harder to find out how they have to pay their taxes. I guess for us we have to look at some level to say is this someone who didn't want to pay and while maybe thought it would just never catch up to them and maybe they'd get away with it. Or is it someone is genuinely believe that their taxes were being paid; didn't see a bill, didn't know to question it. Didn't think that there was a problem there and I think it's a difficult one, but I know in the past we have because of this we've categorized this in some general fashion as a governmental error.

LEGISLATOR ALDEN:

Mr. Chairman, could I just make one other statement? This could be the difference between Mrs. Caceres being able to retain the house and losing the house. It's almost \$4,000, but also I'd like to point out and this is very interesting that Legislator Levy, if you look at some of your backup Legislator

Levy is actually -- he's petitioning this legislative body --

LEGISLATOR FIELDS:

-- to vote for it --

LEGISLATOR ALDEN:

-- yeah, he actually wants you to do this. It's in writing; Legislator Levy who's basically a stickler for the law and now he it's an Assemblyman Levy, yes. He sent two pieces of correspondence to my office where he indicated --

CHAIRMAN GULDI:

Yeah, one where he wants you to do it, right?

LEGISLATOR ALDEN:

Well, he wants me to do it, you know, because he's no longer with this body.

LEGISLATOR BINDER:

Does it say that had he been here he would've voted for it?

LEGISLATOR ALDEN:

It sounds to me that he would support this one.

LEGISLATOR BINDER:

He would've vote for this one so it would have been a seminal point in his career had he been here.

LEGISLATOR ALDEN:

Absolutely.

LEGISLATOR FIELDS:

Is there a way of asking the town tax office whether -- where they sent the bills? I mean, will they give you at least that?

LEGISLATOR ALDEN:

They won't give it to me, but I think they would probable give it to --

LEGISLATOR FIELDS:

Well, then I might offer just to table it and if we had that I think that it would be probably the decision of the body to go along with that just --

LEGISLATOR ALDEN:

Or if you could, you know, if you could pass it out just with that proviso or proviso that we supply that --

LEGISLATOR BINDER:

Let me -- my guess is because of the size of the number here, a lot of times you tell people when you find out pay right away because in case you don't get this you stop the clock from running. If we table this the clocks going to be running and it's a substantial clock at \$3900. I'm sure she hasn't paid

this to stop the clock cause she doesn't have -- I would assume she doesn't have the money to pay it. So my suggestion would be we discharge it and try to get it for the Tuesday meeting.

1092. Authorizing waiver of interest and penalties for property tax for Caceres Reyna (SCTM No. 0500-204.00-01.00-092.000). PRIME (Alden)

CHAIRMAN GULDI:

I'll take Legislator Binder's motion to take 1092 out of order and discharge without recommendation and I'll second that. Discussion on the motion. All those in favor? Opposed? It's now before us and the discharge without recommendation cause it was a compound motion. Okay, 1092 is discharged without recommendation. **(Vote: 3-0-0-1 Absent: Towle)**

LEGISLATOR ALDEN:

Thank you very much.

CHAIRMAN GULDI:

Okay, we're done with the cards so now for the main event. Would you like to come up to the dissection table, sir?

MR. PIZZULLI:

Good afternoon.

CHAIRMAN GULDI:

Okay, now that you started I can say the last two of these who were here were Tyco and Global Crossings; are you sure you want to be next?

MR. PIZZULLI:

Mr. Chairman, let me just introduce who's here with me at the moment. For the record I'm Vincent Pizzulli, attorney for Alcatel Submarine Networks and Cable and Wireless. To my far right is Wil Snyder from the engineering firm Baker Company, the engineering consultant for the project. Next to Mr. Snyder is Tim King who represents Cable and Wireless and to my immediate right is Roy Carryer who is with Alcatel Submarine Networks and having said that unless there is any initial questions I'd like to make a brief presentation.

MS. SCHMIDT:

Please talk closer to the microphone.

MR. PIZZULLI:

Oh, sure. Sorry. Mr. Chairman as promised several months ago when this committee passed upon the OGB resolution for Global Crossing, may they rest in peace, we are here back today with another project. I believe I spoke to the Chairman privately and -- well, several members of the committee the then committee at that time. This project is called Apollo North; it is the northern cable of a two-cable system call Apollo, Apollo South as a transatlantic cable that will land in Manasquan, New Jersey. This cable will originate in the UK and with your approval and blessing will terminate at

Smith Point County Park where it will then enter into upland route through the Town of Brookhaven. Mr. Snyder can answer any questions or explain in greater detail any engineering aspects or technical aspect of the job, but basically this is as you've seen before with other projects a directional drilling operation that will take place off shore. The cable will be bored -- the conduit will be bored beneath the beach. It will enter into the subterranean area of the parking lot at Smith Point County Park where it will connect to a manhole on the surface in the northeast corner of the parking lot. From there this cable will be bored through directional drilling underneath Narrow Bay from Smith Point County Park into private property in Mastic Beach for which we've secured an agreement to install the cable there. The cable then at that point will be trenched in a road easement through the Town of Brookhaven where it will ultimately end in a terminal station in East Yaphank in the Brookhaven Research and Development Park which is located at the southeast corner of the intersection of the LIE and the William Floyd Parkway.

We have spent the last several months in extended discussion and negotiation with representatives of the Parks Department and the County Attorney's Office both of whom are here with us this afternoon. The -- I'd like to say I'm pleased I think that we've got what we feel is a very generous fee consideration to offer the County for its permission to license this installation. The proposed fee is \$700,000, which by all accounts is 40% more than has ever been paid before for a similar installation anywhere in the United States. We think it's something certainly worthwhile considering. Considering that the impacts the project are slight. The planners and the CEQ have reviewed the project; the CEQ has recommended to the Legislature a SEQRA negative declaration based upon its review of the project. It did classify it as an unlisted action. I think at this point I'd like to pause and take any questions if I may.

CHAIRMAN GULDI:

Legislator Binder.

LEGISLATOR BINDER:

Could you give me an idea of what's been paid where when we say comparables, you know, your talking about comparables and percentage more -- how much, where, you know, where will they lay cable. Whose laid them and what the prices are and how you've come to or how others have come to the prices of what's been paid.

MR. PIZZULLI:

I'd be happy to Mr. Binder. I can speak from personal experience with regard to the three, excuse me, three most recent agreements and installations of similar of this type on Long Island. In 2000 another telecommunications company called Flag Atlantic negotiated a fiber optic cable installation at Crab Meadow Beach, which is the Town of Huntington Beach on the North Shore. The fee paid to the Town of Huntington for that installation was \$400,000. That fee was arrived at through discussion and negotiation with representatives of the Town Board in Huntington and it was largely a market driven fee based upon legislative needs of the Town Board at that time.

There was no, to be perfectly honest with you, there was no precise standard by which this was measured and in comparison to prior agreements that had been negotiated with Suffolk County cause they were the only comparables that existed at that time. That fee arrangement substantially exceeded anything that could be considered a comparable in this area at that time. Subsequent to that negotiation the southern terminus of that cable project, that was also a two cable system North Shore Cable and a South Shore Cable. The southern cable was landed at the City of Long Beach with the City of Long Beach's permission and a fee of \$500,000. What was the difference between the two agreements other than \$100,000 was the fact that the City of Long Beach agreement was a 25 year term and the Town agreement was a 20 year term, but basically those two agreements were valued the same way, approximately, \$50,000 a year was the way it broke down.

Last year as you know we were I on behalf of another client along with Mr. Carryer were here to speak to you about Global Crossing who had already received permission from the County Legislature several years ago for the existing cable installation at Smith Point County Park. Let me backup to that and say that the history of the existing -- there are several cables located in Smith Point County Park. The Global system has been arrived at by virtue of three agreements with the County. The initial agreement for the installation or the assignment of the conduits was valued at \$150,000. Representatives of Global and -- came back requesting permission to assign the conduits to another entity for Global's benefit and the fee paid on that assignment was \$209,000 and then most recently last summer in connection with the ground wide installations for the Global System that this committee and the Legislature approved and the client paid \$160,000. All totaled by accumulation of those three agreements the fee paid by Global was in excess of \$500,000 somewhere in the neighborhood 520, \$530,000 and that is fair to say is a comparable by which we could be measuring the standard being used today.

LEGISLATOR BINDER:

Who's getting their stuff? Who's getting Global's assets?

MR. PIZZULLI:

Good question. There's several bids; we're not privy to it, but there are several bids.

LEGISLATOR BINDER:

Are they going to be breaking down the assets separately or are they going to -- are there going to be separate assets?

MR. PIZZULLI:

It's not known at this time.

LEGISLATOR BINDER:

You don't know.

MR. PIZZULLI:

Not known it's too early. So by way of comparables those three come to mind. The Huntington, the Long Beach and the cumulative agreements paid and fees paid to the County of Suffolk for the Global System.

LEGISLATOR BINDER:

Is there any other way to, well, two questions, how are the payments made in lump sum or are they paid in installments, how are they paid? Cause you talk about 20 versus 25 years.

MR. PIZZULLI:

They're paid at the County's pleasure or at the municipality's pleasure whatever see, whatever you deem the most appropriate arrangement. In the past it's been --

LEGISLATOR BINDER:

Well, considering we're 0 for 2 in terms of companies if set before us we'd probably want the money.

MR. PIZZULLI:

That seems to be the most appealing option.

LEGISLATOR BINDER:

Certified AKA anyway. Issue a certified check.

MR. PIZZULLI:

I should add and not just because Mr. King is here, but unlike Global, Cable and Wireless is a substantial company. They're very well established UK company; they've been in existence for over 100 years and in fact prior to privatization in the UK owned much of the UK mass transit and communication systems.

LEGISLATOR BINDER:

There's definitely more history there; there's no doubt that Cable and Wireless have been around a long time. Okay, so that's one question. The other -- there's another way to express it in other words like if cable as in cables and feed is it ever expressed in another way so you can make a comparison because it might be different? You've got years now is there another expression of how you can breakdown and make a comparison so I can understand the -- how you arrived at a number?

MR. PIZZULLI:

We did -- I did prepare an analysis to break it down per linear feet so that you could get a sense.

LEGISLATOR BINDER:

Right. Okay. Linear feet of the cable.

MR. PIZZULLI:

Correct. Let me start by saying that most, well, I'll give you the specifics.

The Flag project which I've been speaking about previously, the Flag North, the Huntington agreement and the Flag South in Long Beach. The fee when divided by the linear feet of the project gives us a workable stat. In Huntington it was \$20.81 per linear foot –

LEGISLATOR BINDER:

\$20.81.

MR. PIZZULLI:

\$20.81. In – for Global, let me go to Global for a minute because there were several agreements as I said. There was the original agreement, the assignment and then the OBG agreement; the combined consideration for Global paid to the County was \$516,000 including the OBG agreement last summer and the linear feet of that project was 40,547 feet which yields a per foot cost of \$12.73 for Global. The Apollo North project the one we're speaking to you today has a linear foot dimension of 43,242 feet and when you divide that into the proposed consideration of \$700,000 would yield a project cost a per foot cost of \$190.21. The only other fee, and by the way, I want to add that New York State receives compensation as well for the use of its territorial waters and in all of these instances all of these projects these cables have to pay New York State to traverse to the local jurisdictions. In the case of this particular project there is over four miles of New York State waters that this cable travels through 21,261 feet. The standard per foot fee that the State charges is \$15.23.

CHAIRMAN GULDI:

(inaudible)

MR. PIZZULLI:

It's a one-time fee.

CHAIRMAN GULDI:

(inaudible)

MR. PIZZULLI:

I'm sorry for 25 years; one time fee for 25 years. In summary, basically what you have here is in most of these instances fees that are paid in the neighborhood of \$12 to \$15 per foot with the exception of Huntington which was slightly higher \$20.81. The fee that we're proposing to pay today on a per foot basis is about most ten times the amounts previously paid to other jurisdictions per foot. Now there are other jurisdictions, but none of which New Jersey comes to mind, I mentioned New Jersey I don't have the particulars on the fees paid New Jersey, but they're no where near the fees being paid here on Long Island.

LEGISLATOR BINDER:

So around the country this is this might set the standard is what you're saying.

MR. PIZZULLI:

It certainly does set the standard.

LEGISLATOR BINDER:

Are there any other forms of payment; it's been suggested maybe around even this horseshoe that payment be made is kind of an on going basis as a percent of operating net revenues or some such calculations. Is that been done or is it being done anywhere in the country or –

MR. PIZZULLI:

To our knowledge it's not being done anywhere else in the country. I believe it's been researched many a time. I believe the County Attorney's Office who can speak to their own research have come to the conclusion that it's not legal in their opinion. I'm not here to say it's legal or not legal, but I am here to say it's not being done anywhere else and from the clients standpoint it's a very undesirable method of financing this agreement. It effectively makes the – makes government a partner with telecommunication company which is not deemed desirable from their standpoint and I have this discussion with the Chairman on prior occasions and it's just not a feasible option. Thank you.

LEGISLATOR FIELDS:

(inaudible)

CHAIRMAN GULDI:

I have a few. The – just to take the last point first; my understanding is that those cases that have been decided on a participation basis for utility or other easements with a municipality were on very substantial percentages and the kind of nominal percentage that I'm suggesting here has never been tested in the courts or challenged.

MR. PIZZULLI:

I don't, you know, I'm not that I'm not an expert on that Mr. Chairman, but I don't even know the nominal percentages that you might be suggesting either so I'm at a disadvantage here.

CHAIRMAN GULDI:

Well, lets go back to the beginning. I mean, the 700,000 (inaudible) is under the terms payable yesterday or as soon as we get through the –

MR. PIZZULLI:

The approval process.

CHAIRMAN GULDI:

The approval process and the cash flow basis is totally unacceptable you say because of the partnership aspect. What if it were let say one basis point of net revenue or a fixed amount on an annual basis the lower of one or the other depending essentially pay the fixed amount or open your books and show us you made less.

MR. PIZZULLI:

Well, see that last I was with you until you threw in that last part. Okay,

that's one of the problems that we – that a company like Cable and Wireless would have here with the opening the books aspect, the partnering aspect of it. If there's a creative way to finance this that comes within an acceptable threshold we'd be happy to explore that, but to to make it an open the books situation and have the fee potentially exceed what we feel is already an amount that setting a new standard they would find onus from a business standpoint and I'm being perfectly honest with you. And you know for what it's worth on a revenue stream basis that you're there for the good and the bad and if this was a Global situation or there was another catastrophic event in the telecom business the revenue would be zero; you'd be talking you'd be in the red. So this is a bird in the hand situation very much so. I understand your deep desire to try to create a creative ways of financing projects that you feel may yield more value. I say to you today this is a significant value; it's value way over and above any value paid anywhere else in the United States or in the entire world for that matter. I realize that, you know, when you think of telecom companies you think of millions and billions of dollars of investment capital, spending and profits to be made, but all those profits come at a price. Infrastructure has to be paid for and the prices and the fees for these things have to be reasonable otherwise the infrastructure can't be created.

CHAIRMAN GULDI:

Well, see it's funny you turn to infrastructure is the next area. The government needs analysis the park that you're proposing coming through, as you know has a lot of utility in it. In fact, I mean, lets go to the question of why are you going through the residential sections of Brookhaven for your upland easement?

MR. PIZZULLI:

The answer to that as you probably know is very straightforward. The existing right of way easement along the William Floyd Parkway is crowded; it's literally crowded. There are LIPA cables, KeySpan, LILCO cables whatever you want to call them. There are telephone company cables in there; there are at least two telecom cable systems utilizing that franchise. Would have it been possible to ask DPW permission to use that easement, yes, however it was under -- it was felt to be undesirable from Cable and Wireless's standpoint from Alcatel standpoint. They didn't want to overburden that existing condition and they sought out at considerable expense a new easement and are paying substantial sums of money for that right.

CHAIRMAN GULDI:

Well, lets go there. How much is the substantial sum of money they're paying Brookhaven for the easement?

MR. PIZZULLI:

\$550,000.

CHAIRMAN GULDI:

How long is that easement?

MR. PIZZULLI:

That easement is 40,450 square feet. It's about eight miles at \$12.72 a foot.

CHAIRMAN GULDI:

What are you doing to the roadways after you install the easement -- the cable there?

MR. PIZZULLI:

Funny you should ask because for every road from Mastic Beach, from the beach at Narrow Bay up to Neighborhood Road in Shirley, Alcatel and Cable and Wireless have agreed to repave after they've trenched the cable and they've agreed to repave as additional consideration to the town the entire right of way area up to Neighborhood Road. North of Neighborhood Road the cable will be trenched in and the road will be repaired on a section by section basis where it's needed.

CHAIRMAN GULDI:

So what's the distance of the repaving?

MR. PIZZULLI:

Approximately about a mile and a half to Neighborhood Road. I should add as long as you're asking inquiring about this the highway department estimate for the road repaving and the trenching and the patching came out to slightly more than \$300,000 so that with the estimate and the fee paid the total value of a nine mile easement is approximately 800 and some odd thousand dollars.

CHAIRMAN GULDI:

Did the -- the trigger as you know is of course government needs analysis. One of the problems I have -- we have as a County with the park in question is it's seen a lot of easement work. We have a parking lot out there that you proposed to use for your construction and installation phase that to some it up in the opinion of at least one Legislator needs a new parking lot. The concern I have is obviously your proposal is to limit the scope of your work after your done using the parking lot staging area is to repair damages caused by you; that'll leave me a worn out parking lot that still needs a parking lot.

MR. PIZZULLI:

Well, I think let me first say this any area of the parking lot at Smith Point County Park that is damaged or deteriorates by virtue of any activity that occurs by Alcatel and its contractors would be repaired, okay, and we would bond for that with the County as would most contractors to insure the safety -

CHAIRMAN GULDI:

(inaudible) two-inch top coat for the whole thing when you're done?

MR. PIZZULLI:

We -- I've had that discussion with the Legislator and the conversation and the suggestion came literally at the eleventh hour in the process, but there are several obstacles that we had to that, but as I indicated to the Legislature, you know, we have no objection on where you want to allocate the fees we're paying. The problems that we had is that the additional estimate to repave the entire parking lot would more than double the consideration that we're proposing to pay for the license agreement number one. And number two, in conversations with your County Parks officials there master planning for the prop -- for the park calls for substantial improvements in about four they estimate in about four to five years and it seemed wasteful from their perspective and it seemed excessive from our perspective in terms of the fees that we're paying. In other words we didn't see nor did they see the wisdom of repaving the parking lot only to rip it up again four years from now.

CHAIRMAN GULDI:

The -- one of the things that an ongoing concern is that let's face it the easement work goes in; yes, you covenant to repair; yes, we've had other people go in there. The parks gets beat up when you permit construction work in it period it happens. The concern is precisely that the condition of the park. We've got a park in the opinion of some is overburdened with utilities and in need of repair because perhaps we haven't been getting enough from prior utility uses there, but we do have a problem there. The -- and in fact Legislator Towle asked me to put on the record his remarks that he even though he's not here to vote for it is willing to support this resolution provided that the consideration goes into capital projects at the park and that he's gotten somebody from the County Exec's Office to say that there would be resolution to dedicate the revenue from this to do that. I don't know that that's necessarily the terminative feature for anyone else. I'm just concerned really overall. I mean, overall the problem I have is that, yeah, it's a lot of money; yeah, it's more than -- concede that it's more than that has been paid in some other circumstances it still leave us with a park that's overburdened with utilities and without sufficient capital led by your own statement in term to even fix the parking lot.

MR. PIZZULLI:

Well, let me I understand; let me clarify a couple of things though for you because it's not exactly the park that's overburdened with utilities; it's as I explained before the William Floyd Parkway easement some say is overburdened which we're not proposing to utilize. But the park itself specifically the parking lot at the present time and you know what, let me show you this picture. What I'm showing to you Mr. Chairman is an aerial photograph of the Smith Point County Park parking lot and in green striping and green lettering are the existing conduits that the County has approved in the past. What you see in red is what's being proposed here today. We're not aware and I don't believe there are any other utility connections of any kind conduits or pikes buried that we know about, but only your Parks Department can answer that for sure. But the only telecom cables that are in

that that are beneath that parks are what you see on the diagram in from of you. One is at the extreme westerly end of the parking lot and the other is at the easterly side of the parking lot. I should add that these are subterranean conduits so it's not like we're going into the parking lot and trenching these things in six feet under. These are being directionally drilled from the ocean; it's literally 60 feet under, well, below grade when it enters the park and it comes up at an angle and the only time it gets close to the surface is when it reaches the manhole which is at the northeast corner and then it'll be six feet over there. But from here to here the elevation changes approximately sixty to zero, so my point is it's not like there are conduits literally below grade. These are very deeply buried conduits that will not interfere with and this has been verified with the Parks. The only thing we're ripping up is we're digging a hole for a manhole that's the only thing we're ripping up.

CHAIRMAN GULDI:

Well, the ocean grounding bed will be excavated from the surface as well, will it not?

MR. PIZZULLI:

The ocean grounding bed is shown on the map as well and that's that is a trench, okay that'll be excavated over here these grounding rods will be -- the trench will be open and the grounding rods will be piled in and installed in and then closed up.

CHAIRMAN GULDI:

Yeah, well, then just in terms of the additional utilities there are telephone, water and power out they're at the very least. Could you provide the Clerk with a copy of that map so it's part of the record since we referred to it, thank you. Any other question?

LEGISLATOR FIELDS:

I think we may have asked this in the past, but how long does the project take?

MR. PIZZULLI:

I'll let Mr. Snyder answer that. He can explain to you how long they will actually set up and stage in the parking lot.

MR. SNYDER:

The schedule has been provided by the contractor to do this work shows the project the actually works starting a tentative date pending approval of the County of the 26th of this month. The work would be finished and all the equipment would be out of the park before Memorial Day.

MR. PIZZULLI:

Let me clarify that. The actual drilling operations and the staging area used in the County park they would be done by the middle of April. What Mr. Snyder is referring to is the total project coming back to the County and pulling the cable through the hole will be done by Memorial Day and that's the cutoff date from that the County Parks would like us to be done so we

don't interfere with the summer recreational season.

LEGISLATOR FIELDS:

How large of an area do you have to setup in order to do your work. I know you're saying that work area will, you know, what the completion will be small, but how much equipment, how, you know, how much of an area do you need to take up during the work project?

MR. PIZZULLI:

How many square feet, Wil.

MR. SNYDER:

The staging area for the directional drilling will be done out in the ocean is approximately 250 feet long by about 50 to 75 feet wide.

LEGISLATOR FIELDS:

Does that impact the parking, Steve, maybe?

MR. RAPTOULIS:

(inaudible)

MR. SNYDER:

This work again would all be done prior to Memorial Day and it's located about 275 feet from the existing entrance to the parking facility. Now that would be ample room for vehicles to get around there.

LEGISLATOR FIELDS:

I was just there yesterday and it's one of the few areas I guess that holds strip right up to the exact point of where it looks like you're putting it in. It 's one of the areas that people sit and they have a nice aesthetic view of the Bay there.

MR. SNYDER:

Could I again refer to this drawing and show you one thing on this map? You're asking about the staging area; it's shown here by this dashed line. Okay. It's shown by this dashed block. The incoming traffic now come in right here to this part so there would be, you know, I realize the area that you're talking about it's right in here where a lot of people sit. It's the guardrails right around that's in this area right up here. There would be no equipment in that area up there; it would all be confined to this area here.

LEGISLATOR FIELDS:

The reason I say that is yesterday when I drove in there just to kind of look at it there were about 20 cars lineup just looking out, you know, at the view. So --

MR. SNYDER:

Right and it's, well, other times you would have seen my car sitting there too, it's a very beautiful view.

CHAIRMAN GULDI:

Legislator Binder has another question.

LEGISLATOR BINDER:

If we don't pass this on the 19th, when the next meeting, Counsel?

MR. SABATINO:

April 16th.

LEGISLATOR BINDER:

April 16th, so if we pass this on the 16th what would happen to the schedule in terms of trying to be done by Memorial Day, give me an idea?

MR. PIZZULLI:

Two things basically what happened Legislator Binder and I was going to speak to that. Thank you for asking -- for reading my mind.

LEGISLATOR BINDER:

Do I get paid for that? No, I guess not, sorry.

MR. PIZZULLI:

From Alcatel's perceptive --

LEGISLATOR BINDER:

-- I'm an attorney, I mean, I have a referral for you for reading another attorney's mind.

MR. PIZZULLI:

We don't have -- from Cable and Wireless and Alcatel's perceptive we don't have the luxury of even, unfortunately, even a 30 day adjournment; the reason being very simply and I know there probably won't be too many violins going for this, but the operation is an extensive project that's underway from a facilitation and mobilization standpoint. There are ships commissioned to lay this cable so that schedules can be met. They are anticipatory I realize that and you can sit there and say well, jeez, how brilliant was that that all this stuff is being mobilized and you don't have our approval yet. It's a risk, it's a big risk, but it's underway and obviously there's considerable expense involved. The other I think more local reason is literally the requirements of your Parks Department in the County. They do not any disruption with the summer season and the use of the parking lot at the beach and by their account Memorial Day is obvious the opening day. But by their account the end of June is really when the parking lot becomes heavily utilized when school gets out and under no circumstances would the Parks Department as explained to us they would not like to see any work activity in this parking lot beyond Memorial Day.

LEGISLATOR BINDER:

Well, I think for our part we probably don't want to see anyone in there beyond Memorial Day either.

MR. PIZZULLI:

So that's the schedule that's being dictated to us, unfortunately.

LEGISLATOR BINDER:

And there is no way to cut that if it's an April -- you're not going to be able to make Memorial Day (inaudible).

MR. PIZZULLI:

The gentlemen here to me we've cut it to the bone.

LEGISLATOR BINDER:

So let me hypothetical; it gets tabled; doesn't go anywhere at Tuesday's meeting. Cable and Wireless then may not have an interest in doing this at all. In other words, we might forego \$700,000 in a fee from Cable and Wireless if that were the case that we don't pass it on Tuesday, I need to know are we talking re-evaluation and maybe not even planting the cable there?

MR. PIZZULLI:

Yes. There's a very realistic possibility that the project would have to be scuttled at this point. Certainly, even to entertain the notion of coming back a year from now for example to do this again is too speculative to even venture an opinion about given the market conditions within the telecom industry and just given the literal an sheer cost to re-do this entire project and seek out all the approvals that are necessary, it would be a huge setback.

LEGISLATOR BINDER:

Thank you.

CHAIRMAN GULDI:

What's the approximate mobilization cost for this stuff that's in progress already?

MR. PIZZULLI:

About 20 million per ship.

CHAIRMAN GULDI:

If you -- so you mean to say that the best you're possibly going to do for 25 year easement for this cable is \$700,000. You can't do a thing additional to that, but you got \$20 million in mobilization cost that you're going to jammed on if we don't say, yes today?

MR. PIZZULLI:

Mr. Chairman.

CHAIRMAN GULDI:

What are you willing to put on the table to get to yes today? That's the question.

MR. PIZZULLI:

We've put 700,000 on the table; is this -- let me explain something. This is not a situation where because the numbers are high there's a lot of fat to be spread around. The margins are thin, so even though when we throw numbers around like \$20 million for a vessel, okay, it's not like -- it's pure expense. That's pure expense; the money to be spent here to create this system is considerable. You know profits aren't being factored into this thing globally yet. There's not -- there's not money this is a budget and it's a very significant budget.

CHAIRMAN GULDI:

I understand that; all I said was you got \$700,000 on the table I'm saying it's not enough; what are you willing to put on the table in addition to that to get to yes today? Have I been too subtle?

MR. PIZZULLI:

One thing you've never been accused of, Mr. Chairman. May I approach the Chairman for a moment?

CHAIRMAN GULDI:

I don't think we have anything off the record. I think that --

MR. PIZZULLI:

Well, you know, I'm not really to keen on negotiating on the record.

CHAIRMAN GULDI:

All right, given that we'll take a five-minute recess. Okay?

MR. PIZZULLI:

Thank you.

RECESS BEGAN AT 2:50 P.M. AND ENDED AT 3:10 P.M.

CHAIRMAN GULDI:

The Way and Means Committee meeting recess is over. We're going back on the record. Any other questions by Legislators for this panel? Hearing none we'll go to the agenda and we'll run through this.

MR. PIZZULLI:

Thank you, Mr. Chairman.

CHAIRMAN GULDI:

Counsel of the Legislature we're going to do the agenda, please come to the auditorium.

TABLED RESOLUTIONS

1041 Sale of County-owned Real Estate pursuant to Local Law 13-

1976 Stephanie Caravolos (0204-022.00-01.00-014.001). PRIME (Co. Exec.)

1042. Sale of County-owned Real Estate pursuant to Local Law 13-1976 Louis D. Messina (0204-022.00-01.00-010.000). PRIME (Co. Exec.)

LEGISLATOR BINDER:
(inaudible)

CHAIRMAN GULDI:

Oh, 1041 and 1042 have been withdrawn, that's correct.

1043. Sale of County-owned Real Estate pursuant to Local Law 13-1976 Thomas M. Hudgins and Susan E. Hudgins (1000-128.00-02.00-023.000). PRIME (Co. Exec.) That's 1000, that's in the Town of Southold. We were waiting to see if the town had an interest in this for municipal purposes.

MR. BURKE:

We did back in February 8th we sent them a notification we contacted. They don't appear to have any interest if you want to go forward or not.

CHAIRMAN GULDI:

Yeah, the concern I have is this is a sliver parcel that would provide access from a public road to the bay front.

MR. BURKE:

Right.

CHAIRMAN GULDI:

I for one am reticent to support it. I'll make a motion to continue tabling.

MR. BURKE:

Okay. So you want me to get a definitive response from the town.

CHAIRMAN GULDI:

Yeah. I want a definitive response from the municipality. I don't think we should be -- I think we should be very reticent to be deeding out of the County position waterfront parcels absent of direct public benefit in every circumstance.

MR. BURKE:

Right.

CHAIRMAN GULDI:

And I don't see that in deeding this sliver to an adjacent lot landowner a piece of bay front. So I'll make a motion to table. Is there a second?

LEGISLATOR BINDER:

Second.

CHAIRMAN GULDI:

Second by Legislator Binder. All those in favor? Opposed? 1043 is tabled.

1044. Sale of County-owned Real Estate pursuant to Local Law 13-1976 Stony Brook Medical Park Condominium (0200-418.00-04.00-0003.000). PRIME (Co. Exec.) This is a parcel adjacent to the Sewer District in the Town of Brookhaven maintenance yard, is that correct?

MR. BURKE:

That's correct.

CHAIRMAN GULDI:

Have we got definitive responses from them as to the possibility of future use?

MR. BURKE:

Yes. It was two things you asked me -- Charles Bartha, Department of Public Works has declared this surplus property and I did speak with the Town of Brookhaven. I sent them a letter and I spoke with them personally and they said they are receiving the bulk of this property they're going to be using for ball fields, but adjacent to the subject property here, but the 50 feet that involves the -- this resolution they have no problem if we sell this 50 feet. If you look at the map --

CHAIRMAN GULDI:

Yeah, I'm looking at the map.

MR. BURKE:

The sewer property the property the County had for the Sewer District is a much larger parcel that is going to be dedicated to the Town of Brookhaven.

CHAIRMAN GULDI:

The Suffolk County Sewer District #10 the parcel #8 on this block is or no that's -- yeah, that's block 8? No, it's lot (1) it's in block 8. That's going to be dedicated to the Town of Brookhaven for athletic purposes?

MR. BURKE:

Yes.

CHAIRMAN GULDI:

But the 50 foot strip lies between that and the --

MR. BURKE:

And the park itself, the Medical Park. They were looking for expansion of parking that's really what they were --

CHAIRMAN GULDI:

The Medical Park is looking to expand its parking.

MR. BURKE:

Yes, that's correct.

CHAIRMAN GULDI:

But we're going to have direct municipal use. You say you have conversations from Brookhaven?

MR. BURKE:

Yes. I spoke with Town --

CHAIRMAN GULDI:

All right. I'm going ask you to get it right.

MR. BURKE:

You want to put it in writing cause I spoke with John Girandola who's the Planning Commissioner and also with the town attorney. If you want me --

CHAIRMAN GULDI:

Yeah, I'd rather have it in writing; I'd be more comfortable with that.

MR. BURKE:

Okay.

CHAIRMAN GULDI:

I'm going to make a motion to table. Get it in writing.

LEGISLATOR FIELDS:

Second.

CHAIRMAN GULDI:

1054. Adopting Local Law No. --2002, A Local Law to amend the Suffolk County Code of Ethics. PRIME (Co. Exec.)

Oh, 1044. All those in favor? Opposed? It's tabled. **(Vote: 3-0-0-1 Absent: Towle)**

LEGISLATOR BINDER:

Mr. Chairman.

CHAIRMAN GULDI:

Legislator Binder, go ahead.

LEGISLATOR BINDER:

On 1054 Counsel sent me a memo I assume other members of the committee got. I don't know if Counsel cc'd it. Did everyone get a copy I don't remember?

MR. SABATINO:

Yes, I cc'd -- excuse me, you made the request at the committee and I cc'd members of the committee.

LEGISLATOR BINDER:

So generally, the response to my understanding is that this proposal proposed local law does closely parallel New York State law. Is that quick probably quickest and dirtiest summer of your --

MR. SABATINO:

Well, what I said in the letter was that it tracks the -- the State law tracks, you know, the County law, but that there are differences.

LEGISLATOR BINDER:

Right. And I think you enumerated some of them --

MR. SABATINO:

Exactly.

LEGISLATOR BINDER:

I don't have it in front of me I should have brought it, but --

CHAIRMAN GULDI:

Would you highlight that -- Counsel, could you summarize it for the record, please?

MR. SABATINO:

Okay. Legislator Binder had made a request on February 4th as to how this compared to State Ethic statute and I basically said in the letter was that it tracks the \$75 gift limitations, but that it's different with regard to some of the disclosure language about confidential information, contingent fee, compensation, appearances before municipal agencies and interest in contracts. But that Section 806 of the General Municipal Law which is the State statute allows municipalities to adopt different codes so you can do this; you're not going to be in conflict with the State statute, but you're not obligated to do this because we have a law on the books. So --

LEGISLATOR BINDER:

Well, it's not less stringent and not being less stringent we're not --

MR. SABATINO:

Corrected.

LEGISLATOR BINDER:

Let me ask I'm just maybe just a little bit of curiosity with in terms of the words, conflict of interest or appearance of impropriety. Let's start with conflict of interest and it's not from your memo really, it would be a question of what exactly constitutes conflict of interest. Is that a State definition, a County definition where does that come from exactly? Because obviously is

kind of the crux of what we're talking about in terms of a violation of an ethics rule.

MR. SABATINO:

The statute spelled out it's five or six categories. I mean, the normal rule of engagement is that, you know, there is a direct conflict of interest when the interest of the County and the interests of some private party are --

LEGISLATOR BINDER:

-- at odds --

MR. SABATINO:

-- are, yeah, in conflict or I want to say mutually exclusive, but contradictory that's the word I'm looking for so that the best example since this was done in the context of real estate is that the County's interest in purchasing land for example is to pay the lowest price possible and the selling obviously wants to sell it at the highest price possible. Or when the County is disposing of land the County's interest is in selling land for the highest value and buyers interest is in securing it for the lowest value. So those are your examples of where it would be directly contradictory because one side wants a lower value and the other side wants a higher value.

LEGISLATOR BINDER:

But the conflict of interest for a particular official appointed, elected whatever a specific conflict of interest would go a long the same lines meaning that the - - for the official to fulfill his duty whether that's in voting as an elected official or in carrying out their duty to benefit the County that action if that action is in support of someone in other words if someone is going to benefit on the other side where they would normally have some kind of conflict, but they can get a benefit or they have an interest is another question. It's more than just a conflict, but they could have an interest; how about that question because it's more specific as to a conflict of interest is well, sure one landowner has a conflict with the County, but that's not a conflict of interest in the sense of ethics because they have an interest we have an interest. But the actual conflict comes in when the official acts in a way to protect the interest of the County --

MR. SABATINO:

The reason I gave that example is because that was the one that generated the statute, but obviously it's the situation in which the individual has the relationship with the party who's on the other side of the transaction.

LEGISLATOR BINDER:

Can you talk about the relationship? Talk about what kind of relationship; I just I want to understand because this is going to go way beyond just land use when you pass ethics statutes we have to understand exactly what we're talking about here and in this statute --

MR. SABATINO:

Well, then maybe I misunderstood --

LEGISLATOR BINDER:

Then let me just get the basis of conflict of interest. What kind of relationship would a -- an individual have to have a contractual relationship, a money changing hands relationship; what specifically is that relationship between that official and that other party?

MR. SABATINO:

Okay. Under the statute for -- in the direct conflict situation that's where you have a financial economic fiscal interest whereby you derive a -- you derive some kind some form of compensation or --

LEGISLATOR BINDER:

Does that mean you derive compensation directly from your action so whether it's your action as an official or an appointed official or an action as an elected official; an elected official being that you vote on something or propose legislation is that what we're talking about?

MR. SABATINO:

No. It means that you have a -- it means you have an economic or a financial interest or relationship with a party who then has a business transaction with the County. So if you on a particular matter that is coming before the County for consideration simultaneously have a business, financial, economic relationship with the party on the other side of that transaction then that would be a conflict.

LEGISLATOR BINDER:

Okay. So it can be generalized in nature meaning a general entity, specific corporation, and individual in that kind of context I can have some relationship. It might not be contractual, but there might be some ongoing business relationship and then I or the official might have then actions to take that might support that particular entity, individual, corporate entity that kind of thing. That is --

MR. SABATINO:

No. There has to be -- no, there has to be a specific event that some private party is engaging in with the County of Suffolk. There has to be some specific, you know, whether it's, I mean, the statute lists about 18 things, but I mean if, you know, it could be a contract, it could be they're seeking a permit for approval from, you know, some entity in County government. They're seeking a waiver for something; they're seeking an appropriation of money. I mean, there's got to be a specific event with that private transaction -- private party which is trying to secure something from --

LEGISLATOR BINDER:

-- benefit --

MR. SABATINO:

-- as a benefit. And simultaneously --

LEGISLATOR BINDER:

-- it'll be a general benefit that's also something cause I --

MR. SABATINO

You have to be careful with general benefit because I mean, the classic example is like if you vote to reduce property taxes, if you vote to reduce the sales tax, okay. There's a general benefit, which inures to everybody who's in the category of somebody who pays sales tax or somebody who's paying property taxes. And just because you simultaneously happen to have done a real estate closing for example or you prepared a contract for that person someplace else that would not be a conflict of interest. Even though there's a financial benefit that's being derived because there, you know, with the courts have said and what the ethics opinion have said is that it's a generalized benefit that accrues to everybody and it's not in the context of a specific relationship.

LEGISLATOR BINDER:

When you say everybody could be everybody in a category.

MR. SABATINO:

Everybody in a category, which is that all people who, pay sales tax or all people who pay property taxes.

LEGISLATOR BINDER:

Okay. And the appearance of impropriety this legislation would now bring in the next level and that's why I was trying to define -- I was trying to define one question, which is conflict of interest. Now the next question is the appearance of impropriety becomes in my understanding on this legislation we now adding the appearance of impropriety as another level that is actionable. Is that correct which it hasn't been?

MR. SABATINO:

Appearance has always been part of the statute.

LEGISLATOR BINDER:

Well, --

MR. SABATINO:

These changes --

LEGISLATOR BINDER:

Appearance of impropriety hasn't been in the statute the way we're talking here my understanding is that I mean, you're suppose to refrain from doing something that has the appearance of impropriety, but here it seems that we're now making an appearance of impropriety actionable.

MR. SABATINO:

Appearance of impropriety has always been banned by the ethics law. With regard to these proposed changes I can't speak for them. I, you know, I think I understand where it's coming from, but --

LEGISLATOR BINDER:

But we need your – I need your interpretation as to from your reading of this legislation legally what changes would be made – what would be the outcome the changes that would be made from current law in terms of appearance of impropriety or even of conflict of interest; what changes are made from what was to what will be if this were to pass?

MR. SABATINO:

Well, point one is it's not changing the conflict of interest situation because it's not addressing that particular topic. It's trying to address by adding additional language to the perception appearance of the conflicts situation and quite frankly I think it's, you know, I think it's a little bit open ended because it talks about what a reasonable person would, you know, have an impression for on, you know, improper influence or, you know, --

LEGISLATOR BINDER:

Does New York State do that? Does New York State use the reasonable person standard?

MR. SABATINO:

I don't recognize the specific language from the State statute. When I went back to check it for you I don't see the same exact language.

LEGISLATOR BINDER:

And so you're telling me it's not clear as to what new level of scrutiny.

MR. SABATINO:

I'm not sure what it's trying to add to the existing statute. I mean, I think the existing statute covers this situations that are out there. I'm not sure what situation, you know, currently would be covered by our statute this would add to it. I mean, I'm being honest with you I really don't know what it adds to it.

LEGISLATOR BINDER:

Okay. So currently if something – okay, lets talk about the standard then the reasonable person standard. It seems then let's say it adds the reasonable person standard. What standard now because the appearance of impropriety the question you have to ask is who is it appears to have an impropriety? Does it -- it appears to Ethics Commission I mean, who is it suppose to appear to now and then what would the reasonable person standard change, what would that change be under a reasonable person standard because the appearance of impropriety is the most subjective. It's probably more subjective than the question of a conflict.

MR. SABATINO:

I'm telling you I really I honestly don't know. I mean, I – it may be that this language gives, you know, a little more comfort level that – it gives you more

of a comfort level that, you know, your emphasizing the notion to be cautious and careful, but I'm not really sure that, you know --

LEGISLATOR BINDER:

I would ask the Chairman at the next meeting to have the author from I would assume the County Attorney's Office or somewhere from the County Executives Office to explain specifics so we can get some specificity and I don't think it's David seeing the head go back and forth. No, it wasn't me, not me; I didn't do that. Maybe we can get some specificity as to their intent on this wording so I think we can get a better understanding. I guess I'm just curious especially cause I want to see differences that's why I'm asking about what exactly is a conflict of interest -- (inaudible)

MR. SABATINO:

I can't think of what the example would be; if I could think of the example I'd be more comfortable in giving you a definitive answer.

LEGISLATOR BINDER:

Okay.

CHAIRMAN GULDI:

Actually, one of the things I want I hate to belabor this further, but I'm going to. In parsing the classic category legislation that you spoke about moments ago, Counsel, you were talking about, you know, if for example a elected public official -- I'm going to use a hypothetical cause it works better for me. For example, a relationship with a automobile repair shop that's where you get your car fixed that place or premises happens, you know, not just a vendor of gasoline who has a price at the pump, but a discretionary operation in the sense of whether you pay for the fan belt or the extra time, you know, in terms of their billing, a service operation. Let's put him on a county road; if you have an ongoing relationship with them of a business nature where you're a customer of there's or they be client of yours and a {prod} project for the road past their premises were to come before the Legislature, obviously, you know, we're not talking about a direct conflict of interest because your business relationship with them is not predicated based upon or, you know, they're not paying you for what you do in government, but you have a relationship with them, you have a project that's going to effect their premises as part of a classic category. Are we in the appearance of impropriety cause you do have a business relationship with them?

MR. SABATINO:

No. See that's --

CHAIRMAN GULDI:

Or is that your classic category?

MR. SABATINO:

That's an excellent example, which you can break out into, you know, two scenarios. Scenario one, voting for the road project itself which benefits the public at large would not constitute the appearance of an impropriety under

the existing statute, but if there was a second resolution which came along and said, in order to do the road widening we have to take 11 feet of your property as part of an acquisition process whether it's through condemnation or through negotiations. Then yes, you'd have to recuse yourself because there now you're getting into a specific piece of land. This individuals particular parcel which he owns and you've got that relationship; the thing to do there would be to abstain.

CHAIRMAN GULDI:

I see, but the -- that's the classic or category though conflict; how do you get passed the classic category distinction and the appearance distinction that you or the reasonable man standard for an appearance since you are voting on a resolution that direct governmental action directly impacts an individual as a part of a class that you have a relationship -- a financial relationship with? Does that trigger the reasonable man standard notwithstanding the classic category parsing you were talking about?

MR. SABATINO:

Under the language of this new statue, yeah, I guess you could make the arrangement that this language would then pick that up and then you would be precluded from voting in that situation only because you've now stretched it to, you know, you're giving --

CHAIRMAN GULDI:

Appearance --

MR. SABATINO:

You're giving the impression -- unlike the existing language you could perhaps use that reasonably, you know, ten reasonable basis language to stretch it into a conflict.

CHAIRMAN GULDI:

So it does in a sense then expand the conflict pool in that it will reach some of the situations under a classic category distinction that --

MR. SABATINO:

That otherwise would not be covered.

LEGISLATOR BINDER:

That actually is a good enough answer for me and I probably wouldn't need the County Attorney's people to come by if and I guess that's where I was trying to go. Does that expanded by a reasonable person standard does it bring it into that category that those things which would benefit someone even if it's in a class, but an individual in that class you could have a relationship with and you're benefiting them by being involved in that legislation. It would seem to me that that this seems to pick that up because to the reasonable person they'd say well there seems to be an impropriety here. You just proposed or voted for something that'll help 500 people, but one of those people is someone you make a lot of money from so that would

make sense to you, Counsel. Okay.

MR. SABATINO:

That was under that scenario, yes.

CHAIRMAN GULDI:

Yeah. The point I guess from my perspective if I'm not sure what it is, but it's not a dilution of County ethics. It doesn't certainly relax any standards although I think that I'm concerned about, you know, who interprets this and I'd love to know what the County, the member of the Suffolk County Board of Ethics think that it means and how they would give us guidance on that. So what I'd like to do --

MR. SABATINO:

Actually, that's a very good point; I was going to say, you know, a little earlier is that the other people that are dealing with the questions on a day to day basis it would be interesting to hear what their perception is.

CHAIRMAN GULDI:

I think that what I would like to do is regardless of what we do with this legislation I'd like to invite them in to discuss this and other developments and I think I'll probably do that and schedule it at our next meeting. The -- but with respect to this resolution if, you know, if you would withdraw your request to the County Attorney interpretation I'll make a motion to approve.

LEGISLATOR BINDER:

I'll second that.

CHAIRMAN GULDI:

Second by Legislator Binder. All right. Do we have any further discussion on this issue? Boy, that's a relief. All those in favor? Opposed? 1054 is approved. **(Vote: 3-0-0-1 Absent: Towle)**

LEGISLATOR BINDER:

You, George Guldi are prime on issues of ethics. You understand that?

CHAIRMAN GULDI:

Who better than me.

1063. Sale of County-owned real estate pursuant to Local Law 13-1976 Ronald Linsalato and Jane Linsalato, his wife (0200-982.90-02.00-028.000). PRIME (Co. Exec.) 0200 is Brookhaven, right?

MR. BURKE:

Yes. It was I think there was a previous question on the value of the appraisal value on this, so I've asked our in-house appraiser review to take a look at this. I've not got a proper response yet back from it so --

CHAIRMAN GULDI:

Motion to table till you have that completed. When do you expect that, by our next meeting?

MR. BURKE:

Yes, certainly next meeting.

LEGISLATOR BINDER:

Second.

CHAIRMAN GULDI:

Second by Legislator Binder. Discussion? All those in favor? Opposed? Abstentions? **(Vote: 3-0-0-1 Absent: Towle)**

1116. Sale of County-owned Real Estate pursuant to Local Law 13-1976 Robert Mark Keenan (0900-065.00-02.00-003.072). PRIME (Co. Exec.) Is this another one of the waterfront parcels?

MR. BURKE:

No. This is the one that was in land; it was the land lock piece next to the Town of Southampton you had asked for us to contact the Town of Southampton. We did we didn't receive a response back. It's one where we didn't receive a response back from Town of Southampton. We sent out contact back in February 8th and have not received a response back. Whether they have any interest in this property at all. It's a small piece that's land locked. The only person who bid on it was the adjacent landowner who is on the road frontage. So it just a really --

CHAIRMAN GULDI:

Yeah, all right. I'm going to make a motion to table till we hear something in writing from Southampton Town. Motion to table by myself. Second by --

LEGISLATOR BINDER:

Second.

CHAIRMAN GULDI:

Legislator Binder. Discussion? All those in favor? Opposed? **(Vote: 3-0-0-1 Absent: Towle)**

1168. Approving a settlement of litigation between the County of Suffolk and Frank Vigliarolo, ET AL. PRIME (Co. Exec.)

MR. BURKE:

I believe this a matter that our division has been working with the County Attorney's on and we also -- we are awaiting again some appraisal information on this property so I think we've ask --

CHAIRMAN GULDI:

Motion to table for appraisals by myself, second by Legislator Fields. Discussion? All those in favor? Opposed? Tabled. **(Vote: 3-0-0-1 Absent: Towle)**

INTRODUCTORY RESOLUTIONS

1204. Adopting Local Law No. -2002, A Charter Law authorizing partial County funding of Voluntary Public Financing for County Elections through County Contract Processing Fee. PRIME (Fisher)

LEGISLATOR BINDER:

Mr. Chairman I'm going to make obviously, a motion to table as it's need a public hearing, but I would just also want to put on the record that while I will listen I can't imagine there being any argument that could absolutely be made that would make me want to support this. This is something I think is {enifma} to pick out County contractors to pay for our elections I think is an absolutely awful idea, but lets table it and hopefully kill it at the next meeting.

CHAIRMAN GULDI:

Motion by Legislator Binder. Is that how you say that word {enifma}?

LEGISLATOR BINDER:

I don't know.

CHAIRMAN GULDI:

{Enifma}, huh, are you sure.

LEGISLATOR BINDER:

Yeah.

CHAIRMAN GULDI:

Okay. All right. Second by myself. Discussion? All those in favor? Opposed? **(Vote: 3-0-0-1 Absent: Towle)**

1205. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Donald Graham (0200-077.00-07.00-051.000) PRIME (Co. Exec.)

Local Law 16's -- Lets see we have a bunch of these. We have Donald Graham on two parcels. With respect to Local Law 16's. And these have been prepared by the Real Estate Division.

MR. BURKE:

Yes.

CHAIRMAN GULDI:

Are they all that are before us here as a matter of right?

MR. BURKE:

Yes.

CHAIRMAN GULDI:

Are they all and have the payments been made for the redemptions?

MR. BURKE:

There are a couple that require a sale and payments be make before we actually deed before we actually close on --

CHAIRMAN GULDI:

But they're under contract pending sale?

MR. BURKE:

Yes.

CHAIRMAN GULDI:

So okay. A motion to approve and place on the Consent Calendar the following resolutions by myself. 1205, that's Donald Graham, Town of Brookhaven.

1206. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Donald Graham (0200-077.00-07.00-052.000) PRIME (Co. Exec.)
Same owner same Town of Brookhaven.

1207. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Eliot Carmi (0200-555.00-02.00-030.000) PRIME (Co. Exec.) Is Brookhaven

1208. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Barbara M. Verruto (0200-976.00-04.00-003.000) PRIME (Co. Exec.)
Brookhaven.

1209. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Francis P. Smith and Mary Smith, his wife (0103-022.00-01.00-069.002) PRIME (Co. Exec.) 103 is Village of Lindenhurst.

1210. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Lois Ryan, as Surviving Tenant by the Entirety (0500-313.00-01.00-012.000) PRIME (Co. Exec.) 0500 which is Islip.

1211. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Ronald Richard Grimm and Marie Grimm, his wife (0500-373.00-03.00-062.000) PRIME (Co. Exec.) That's also in Islip

1212. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act

S.M.G. Holding Corp. (0800-106.00-05.00-023.000) PRIME (Co. Exec.) 0800 is Smithtown.

1213. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Windmill Lane Pastures, Inc. (0900-084.00-01.00-005.002) PRIME (Co. Exec.) That's in Southampton.

1214. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Vincenzo Bucaro (0100-145.00-05.00-010.002) PRIME (Co. Exec.) 0100 is Babylon.

1215. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Christopher M. Esposito (0200-486.00-06.00-021.000) PRIME (Co. Exec.) That's in Brookhaven.

1216. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Paulomi Dineshi Agashiwala, as Surviving Tenant by the Entirety (0400-163.00-02.00-022.000) PRIME (Co. Exec.) 0400 is --

1217. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Paula Kaltsas, Individually and as Surviving Spouse of Paul Kaltsas and Michael Kaltsas and Chrysoula Kaltsas and husband and wife (0800-077.00-04.00-019.000) PRIME (Co. Exec.) 0800 Smithtown.
The next one is

1218. Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Paul A. Distefano and Patricia M. Distefano (0900-096.00-03.00-017.001) PRIME (Co. Exec.) In Southampton. And that's it for the Local Laws 16's. Motion to approve and place on the Consent calendar by myself. Second by Legislator Fields. Discussion? All those in favor? Opposed? Those resolutions 1205 through 18 inclusive are approved and placed on the Consent Calendar. **(Vote: 3-0-0-1 Absent: Towle.** Let's go to the Local Law 13's.

1219. Sale of County-owned Real Estate pursuant to Local Law 13-1976 Abart Holding, LLC (0904-001.00-00-01.00-004.001 & 004.003). PRIME (Co. Exec.) That's the Village of Sag Harbor?

LEGISLATOR FIELDS:

I have a question.

CHAIRMAN GULDI:

Is that right?

MR. BURKE:

I don't think so. Southampton.

CHAIRMAN GULDI:

Village of Southampton. Two bids?

MR. BURKE:

Two bids.

LEGISLATOR FIELDS:

I have the same question that I've had. How do we get these bids? Are they bids that we have not told the potential buyer and he comes up with the amount? I just want to know the procedure.

MR. ISLES:

To answer that question I believe Mr. Burke may have had to leave for another matter, but the answer to the question is how do we get the amount for the direct sales is that we do order an appraisal from an outside independent appraiser. When we -- we're required by the Administrative Code to offer these parcels to adjoining owners at the appraised value is less than \$20,000. We then contact **(corrupted tape)**-- to the subject property and we do this of course following a determination that the parcels are surplus meaning that they are reviewed by Planning first if they have any other public purpose to them they're obviously, not deemed to be surplus and ready for sale, but assuming that they are surplus then we do get an appraisal and we contact the adjoining property owners. We do advise them that -- of the up set amount which is essentially the appraised value. We do not offer or accept parcels for below the appraised value. Once that's done we then review the bids that are put in. Here again, the bids would have to at least meet the appraised value. In cases where we have identical bids on property what we do is, we invite the bidders into the Real Estate Department Office for a conference to then review what has been submitted and each person is then given the opportunity to re-bid on the property and potentially pay more money for it, but the appraised value is the minimum that we would then present. Following that we would then prepare this for submission to the County Executive's Office and obviously, reviewed by the Division Director and the Department Head and then it's submitted to the Legislature for your review and consideration. That's it in a nutshell anyway.

CHAIRMAN GULDI:

Question on this parcel I'm looking at the map, this is one of those lovely parcels that where it appears from the indication on the map that I'm looking at that part of the parcel is in the Village of Southampton. Part of the parcel is outside the Village and in the Town of Southampton and all of it seems to be adjacent to a Town owned parcel referring to the tax map, I'm I correct?

MR. BURKE:

I'm sorry, what's the last part?

CHAIRMAN GULDI:

This lot 4.001 seems to be adjacent to the Southampton Town parcel.

MR. BURKE:

Yes.

CHAIRMAN GULDI:

Have we done any inquiry, I mean, I grant I see that we have a bid notice to the Town of Southampton. Have we done any inquiry to the Town of Southampton if they want this parcel for municipal purposes?

MR. BURKE:

Notification was sent out for the bid, but --

CHAIRMAN GULDI:

But hardly constitutes notification asking the Board if they want as a policy matter to use this for Town purposes. So I'm going to make a motion to table this as soon as Legislator Binder is back in the room and we have a quorum again and request that the Real Estate Division ask the Town to decide in writing whether or not it has an interest in this adjacent parcel for municipal purposes before we deed it out as surplus. Lets discuss the rest of these while we're waiting for -- AHH. All right on 1219 my motion to table pending a receipt of a response from the Town of Southampton as an adjacent landowner. Second by --

LEGISLATOR BINDER:

Second.

CHAIRMAN GULDI:

Legislator Binder. Discussion? All those in favor? Opposed? Tabled. **(Vote: 3-0-0-1 Absent: Towle)**

1220. Sale of County-owned Real Estate pursuant to Local Law 13-1976 First & First Kings Park Corp. (0800-024.00-00-10.00-017.000).

PRIME (Co. Exec.) Mr. Isles, you discussed your process before you said only when you have identical bids do you have a bidders conference. So in this case when we're looking at two bids one at 6500 and one at 7,000 there was no conference scheduled? Was the low bidder given an opportunity to bid a second round and declined or did you just do it as one round of bidding? Is that the way you work these?

MR. ISLES:

We do it as one round of bidding. So the appraisal came in at \$4,000; they were advised that is the minimum amount we then accepted bids and have recommended to you the highest bid.

CHAIRMAN GULDI:

Okay. Is there a motion on this one? Motion by Legislator Fields, second by Legislator Binder. All those in favor? Opposed? Approved. **(Vote: 3-0-0-1 Absent: Towle)**

1252 . Adopting Local Law No. –2002, A Charter Law changing date for candidates to opt into voluntary public financing of County Election Campaigns. PRIME (Fisher) This calls for a referendum to amend the language.

LEGISLATOR BINDER:

Motion to table for public hearing.

CHAIRMAN GULDI:

Motion to table for public hearing by Legislator Binder, second by myself. All those in favor? Opposed? Tabled. **(Vote: 3-0-0-1 Absent: Towle)**

1262. Authorizing the sale, of County-owned Real Property pursuant to Section 72-h of the General Municipal Law to the Town of Riverhead for Affordable Housing purposes. PRIME (Co. Exec.)

LEGISLATOR BINDER:

Motion.

CHAIRMAN GULDI:

Motion by Legislator Binder, second by myself. Questions? All those in favor? Opposed? Approved. **(Vote: 3-0-0-1 Absent: Towle)** 1262 is approved. Let's put that on the Consent Calendar. Motion to put it on the Consent Calendar by myself, second by Legislator Binder. Discussion? All those in favor? Opposed? **(Vote: 3-0-0-1 Absent: Towle)**

1263. Authorizing the sale, of County-owned Real Property pursuant to Section 72-h of the General Municipal Law to the General Municipal Law to the Town of East Hampton for Affordable Housing purposes. PRIME (Co. Exec.) Motion by myself. Second by Legislator Binder. Discussion? All those in favor? Opposed? Approved -- I'll amend my motion and make that approve and place on the Consent Calendar. It's approved. **(Vote: 3-0-0-1 Absent: Towle)**

1264. Sale of County-owned Real Estate pursuant to Section 72-h of the General Municipal Law (Town of Riverhead) (0600-060.00-01.00-005.007) (0600-090.00-01.00-035.000) (0600-095.00-02.00-012.000). PRIME (Co. Exec.)

MR. SABATINO:

64 Mr. Chairman.

CHAIRMAN GULDI:

Has no stated purpose in the caption.

MR. SABATINO:

It didn't have a town resolution that was the concern I had raised.

CHAIRMAN GULDI:

Is it affordable housing?

MR. SABATINO:

1264 looks like affordable housing. It's a little bit confusing with some of the details that the Health Department –

CHAIRMAN GULDI:

But there's no town resolution.

MR. SABATINO:

I couldn't find a town resolution.

CHAIRMAN GULDI:

I'm looking at a copy of an authorizing resolution from the Town of Riverhead in my back up Counsel dated December 18th.

MS. ZUCKERS:

I'm prepared to answer any questions about that.

MR. SABATINO:

Okay, but then the town – all right, this was not in the original that was filed with me, but the purpose clause issue that you came to is –

CHAIRMAN GULDI:

Resolve the town here us – let see – set forth in Schedule A for

MR. SABATINO:

I think it's intended to be for –

CHAIRMAN GULDI:

For open space not –

MR. SABATINO:

I think it's intended to be for affordable housing.

LEGISLATOR BINDER:

72-h, it can't be.

CHAIRMAN GULDI:

All right, so the resolution doesn't seem to comply. I'll make a motion –

MS. ZUCKER:

No, No, No, No, it does. Please let me explain this.

CHAIRMAN GULDI:

Go ahead, take a shot.

MS. ZUCKER:

The County wishes to transfer these properties to the Town of Riverhead. The Town of Riverhead will put the parcels into open space in support of an affordable housing project that needed extra density at the Health Department.

CHAIRMAN GULDI:

It's only for open space purposes in the resolution.

MS. ZUCKER:

Right, and that's exactly what the land will be used for.

CHAIRMAN GULDI:

It's only for open space purposes –

MS. ZUCKER:

It is, they're going to covenant –

CHAIRMAN GULDI:

Solely for open space it doesn't let you transfer the development rights unless at least that's the way I'm reading this resolution language. Take a close look at it.

LEGISLATOR BINDER:

Mr. Chairman.

CHAIRMAN GULDI:

Go ahead.

LEGISLATOR BINDER:

I don't think it's a question of a TDR. When I think what happens here is that the total volume of land that's going to be used for a particular development is a determining factor of what kind of flow they have to have for the project. If the amount of land is too small they're not going to be able to build the number of units with the density that they need. By adding this to that without a -- it's not a question of a development right it's that by adding this amount of land and covenanting this that it will be open space that will allow the Health Department to give them the permission to give them the flow required for them to build the density that's requested so does that make --

MS. ZUCKER:

Perfect, that's exactly right. We've been to the Health Department; the Health Department has approved this subject to the land being transferred.

CHAIRMAN GULDI:

There's only one concern I have, who's going to build this project?

MS. ZUCKER:

The Long Island Housing Partnership.

CHAIRMAN GULDI:

So the Long Island Housing Partner is going to build the project; they're going to own the project in fee.

MS. ZUCKER:

Yes. We're not giving the land to the partnership we're giving to the town.

CHAIRMAN GULDI:

We're giving the land to Riverhead; Riverhead will go to issue a credit to house -- the Long Island Housing Partnership I can't that without it through Partnership for title.

MS. ZUCKER:

No, it doesn't need to be.

LEGISLATOR BINDER:

(inaudible) it's because it's an adjacent covenant, right?

MS. ZUCKER:

The parcels actually that we're transferring aren't adjacent to this. The Town is transferring is holding four parcels that it owns and agreeing to covenant and not to developed them. The County is here before you to transfer three additional properties to the Town which the Town will also agree not to develop those parcels. The package of the site in Riverhead for the Long Island Housing Partnership's Affordable Housing Project and the seven sites that will be held in open space were brought to the Health Department for the Health Department's approval. As Legislator Binder said there wasn't sufficient flow allowed on the site to deliver the houses at the affordable prices that the Partnership wanted to deliver them at, so --

LEGISLATOR BINDER:

Are the pieces of land adjacent to each other the seven sites that they're going to build on or are they scattered sites?

MS. ZUCKER:

They're scattered.

LEGISLATOR BINDER:

Okay, so if the whole thing is a scattered site project so that they're looking at the total land underneath and to have -- the flow has to equal the amount necessary --

MS. ZUCKER:

Necessary to build the 13 homes on the Partnership site.

LEGISLATOR BINDER:

Right.

CHAIRMAN GULDI:

What are the sizes of the parcels that are going into open space and the

appropriateness of them given their scattered site locations? I'm looking at the backup maps and the first map I have is so faded that I can't tell what the parcel size is.

MS. ZUCKER:

Bear with me one second. I do have this; I'm sorry I have a huge folder on this. Well, while I'm looking for the sites let me address this scattered --

CHAIRMAN GULDI:

The second parcel I see is indicated on the tax map; it seems to be legible that's at 5.7 acre site going into a nature preserve. Given the section tax map I'm not as familiar with that location as the first one. The first one is in the middle of a farming area so that's not necessarily depending on whether it's the middle of the agricultural fields that are there or the adjacent woodlands it's not necessarily a poor site. The third site seems to be in downtown Jamesport in the middle of a residential area. I'm just wondering about the appropriateness of the -- and then the last site is a -- it appears to be corner that's 160 by 150 feet. So it would be -- it's a small site, so we got a mixture of small sites, farm sites, open space sites that are going into open space. Some I question the appropriateness of the open space designation for some of these sites. Again, that's a Riverhead issue, which is a municipal transfer.

LEGISLATOR BINDER:

(inaudible)

CHAIRMAN GULDI:

Back up just a little bit; give me just a brief synopsis tell me about the project that you're doing in Riverhead that this is part of. Take it from the beginning tell me the story and make this make sense to me.

MS. ZUCKER:

Okay. The Long Island Housing Partnership would like to build 13 first time home -- 13 first home buyer homes on a site on East Main Street South of Route 58. It's in the Millbrook Gardens area; it's a relatively impacted part of Riverhead. When they started working on this site years ago well before I came to the County they had originally hoped to be able to tie into the Riverhead Sewer District and they pursued that and were denied access to the sewer district. Their site is 3.2 acres. In order to make the economics work, and they do have funds coming in, they have County home funds coming in. They have Federal Home Loan Bank funds coming in. They have grants also from the State's Affordable Housing Corporation. When they had started on the project originally they had intended to deliver homes in the 80 to \$90,000 range. There's been significant delays in the processing of the project and they're reworking the numbers now, but I still expect it to be let's call it in the low 100's.

SPEAKER:

(inaudible)

MS. ZUCKER:

First time home buyers. It's adjacent to the -- just bear with me I'm not sure of the exact name, but it's adjacent to an urban renewal area in Riverhead. Riverhead intends to redevelop the surrounding area as well as this site and the Partnership is working on a scattered site housing development in the surrounding communities as well in addition to these 13 homes. So the Partnership was faced with the dilemma that it wanted to deliver homes at a particular price and in order to be able to do that it needed density on the site which it thought it could do if it could hook into the sewer district. When it was denied from the sewer district it needed to find health credits elsewhere.

CHAIRMAN GULDI:

Counsel has a question.

MR. SABATINO:

Just clarify for me the land that we're going to be transferring with this resolution, is it contemplated to become part of the affordable housing complex so that the people who buy the 13 homes have access to it or is it intended to be open space where everybody else in Suffolk County has access to it?

MS. ZUCKER:

Well, it's going to be Town open space. It's not at all linked -- it's only linked in the Health Departments eyes to this development. It's not otherwise linked to this development because it doesn't adjoin. The sites that we're transferring don't adjoin the housing development. You looked puzzled by that.

MR. ISLES:

It's similar to many transfers --

CHAIRMAN GULDI:

(inaudible)

MR. ISLES:

-- yeah, it's similar to many transfers that this Legislature has approved under 72-h to towns and villages for parkland and open space and so forth and in this sense we're not only preserving open space with this program in these three locations, but I think most importantly is the affordable housing project. A project that's been in the works for four years for 13 units incredibly good in the sense that it's part of not just providing affordable homeownership for Suffolk County residents, but also redevelopment of a blighted neighborhood. It's something that's been strongly supported by the neighborhood, the Town of Riverhead, the County of Suffolk and so this is really the last ingredient to get this thing to the point of getting a building permit. So there's been creative effort to try to put this together so we would ask for your support.

CHAIRMAN GULDI:

Tell me briefly about the four parcels that we are reviewing. I'm looking at the maps and I'm wondering about, where did we get them; what are they out of our inventory; what's on them? Particularly, the first site just in the order that they're attached to my backup. The first site shows a map of an area in the vicinity of Wildwood Park along side avenue with a parcel indicated just to the south of Fresh Pond Landing. I'm familiar with strip of highway that's an agricultural area primarily. In fact, no actually, I think that that -- the indicated parcel maybe right in the middle of the garden center that's located there. It's labeled my page is labeled 448 in terms of backup, but I can't read the map to determine the acreage. What are we looking at?

MS. ZUCKER:

Can you tell me the lot number, please?

CHAIRMAN GULDI:

I can't read it.

MS. ZUCKER:

That would be a problem.

CHAIRMAN GULDI:

This one. How big is that parcel?

MS. ZUCKER:

.95 acres. All three sites were taken off the surplus list; they are all properties that the County has taken for tax foreclosure.

CHAIRMAN GULDI:

How big is this first parcel?

MS. ZUCKER:

.95 acres.

CHAIRMAN GULDI:

.95 acres and do we know anything about the condition of the land, is it woods; is it fields, is it vacant lot, is it -- do we know is my question? I think that if it's where I think it is it's a steeply graded piece and woodland, but I'm looking for verification to that.

MS. ZUCKER:

I don't have my maps with me.

MR. ISLES:

The criteria for the Health Department was vacant land undeveloped. These are not improved parcels; we can get back to you with the specifics of whether it's wooded or not wooded.

CHAIRMAN GULDI:

I'm fairly sure that ones (inaudible) -- the 5.7 acre parcel which is the

second one which is no, that's lot 5.7.

MS. ZUCKER:

That's right. That's the one that's .95 acres.

CHAIRMAN GULDI:

That's the one that's .95 then what's the other one I'm -- what are the other -
- what are the size of the others?

MS. ZUCKER:

The sizes of the three parcels are .37 acres and the other one is 1.5 acres.

CHAIRMAN GULDI:

1.5, I see okay. So we're not deeding a substantial fund. That answers my question. I don't have any further questions. Counsel do you feel the town board resolution is adequate in light of the discussion?

MR. SABATINO:

Let me just go back and look at it, hold on.

MS. ZUCKER:

I see that the Health Department's already reviewed the --

MR. SABATINO:

Maybe, maybe it looks like the resolve clause has been covered over by the certification flag so I can't read it, but I mean, presumably the -- if the resolve clause states a request for the property for this affordable --

CHAIRMAN GULDI:

I suggest that if it does not you'll let us know before Tuesday of next week when we vote on it. I'm going to make to approve.

LEGISLATOR BINDER:

Second.

CHAIRMAN GULDI:

Second by Legislator Binder. Discussion? All those in favor? Opposed? 1264 is approved, but lets not put it on the Consent Calendar cause of the outstanding question on it, all right?

1269. Authorizing the County Executive to enter into a license agreement with Cable & Wireless USA, Inc. for the purpose of installing a subterranean Trans-Atlantic telecommunications cable beneath Smith Point County Park, Town of Brookhaven. PRIME (Co. Exec.)

LEGISLATOR BINDER:

Motion.

CHAIRMAN GULDI:

Motion for what? Motion to approve by Legislator Binder. I'm not going to support a motion to approve.

LEGISLATOR BINDER:

Motion to discharge (inaudible)

CHAIRMAN GULDI:

Motion to discharge without recommendation puts me in a harder spot. Is there a second for that motion?

LEGISLATOR FIELDS:

Second.

CHAIRMAN GULDI:

There's a second for a motion to discharge without recommendation. I want to thank you for making this harder for me.

LEGISLATOR BINDER:

Thank you. I read your mind; will I get anything for that?

CHAIRMAN GULDI:

No.

LEGISLATOR BINDER:

I'm reading peoples minds and I'm not getting anything.

CHAIRMAN GULDI:

That's the story of your life. I would express my reticence to support these in the past and I've articulated my concerns for it at great length in the committee process and I intend to voice those concerns and articulate them at our general meeting in the event that I ultimately decide to support the discharge. But give the vicissitudes of timing and the fact that if I do not approve this here it leaves them in a difficult position of obtaining a discharge petition over a committee Chairs objection and or by motion I will support the discharge without recommendation indicating that I am not committed to supporting the resolution in its present form when it goes to the horseshoe and will be re-articulating many of the concerns that I had here in the debate to be held at that time. So on the discharge without recommendation. All those in favor? Opposed? Discharged without recommendation 3-0. **(Vote: 3-0-0-1 Absent: Towle)** See you next week.

TABLED SENSE RESOLUTIONS

11-02 Memorializing Resolution requesting Brookhaven Zoning Board of Appeals to reject variance. PRIME (Fisher)

LEGISLATOR BINDER:

Motion to table.

CHAIRMAN GULDI:

Motion to table by Legislator Binder. I might as well second it. All those in favor? Opposed? Tabled. **(Vote: 3-0-0-1 Absent: Towle)** Is there any other business before this meeting? Anyone else to be heard? We stand adjourned. Oh, wait a minute we have to go back on the record. We have an Exec. Session. I forgot guys. Phil, you're losing weight I didn't see you. I'll make a motion to go into Executive Session with Counsel of the Legislature, Legislative Staff, Risk Management, and the County Attorney's Office. My aide will come to the Clerk's Office to let you know what time the Executive Session has terminated to -- for the purposes of discussing litigation settlements and personnel Workers Comp. Claims.

EXECUTIVE SESSION STARTED AT 4:10 P.M. AND ENDED AT 4:35 P.M.

(Having no further business the Ways and Means Committee was adjourned at 4:35 P.M.)

{ } denotes spelled phonetically.