

**WAYS AND MEANS
and
CONSUMER PROTECTION COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Ways and Means and Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **January 20, 2004.**

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MEMBERS PRESENT:

Legislator Cameron Alden - Chairman
Legislator Andrew Crecca - Vice-Chair
Legislator William Lindsay
Legislator Lynne Nowick
Legislator Peter O'Leary
Legislator Viloría-Fisher

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ALSO IN ATTENDANCE:

Mea Knapp - Counsel to the Legislature
Jim Spero - Director, Budget Review Office
Ivan Young - County Executive's Office
Meghan O'Reilly- Aide to Presiding Officer
Warren Greene - Aide to Legislator Alden
Ed Hogan - Aide to Legislator Nowick
Frank Tassone - Aide to Legislator Crecca
Tom Isles - Director of Planning
Christine Costigan - Real Estate Division
Christine Malafi - County Attorney
Jeff Tempera - Director of Labor Relations

All other interested parties

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 9:35 A.M. *)

CHAIRMAN ALDEN:

Good morning, and welcome to the -- I believe this is the first committee meeting of the Year 2004. So you are all participating in an historic and exciting venture here today. We're going to start with the Pledge of Allegiance, and we're going to have the Vice-Chair, Legislator Crecca lead us in that.

SALUTATION

CHAIRMAN ALDEN:

Thank you. Okay. One of the agenda items is an appointment by our new County Executive. The new County Attorney is here, so I'm going to ask her to come up. And this is -- we just want to get you back working so. Good morning. Now, I understand you are a graduate of Touro.

MS. MALAFI:

Yes.

CHAIRMAN ALDEN:

And this is your first kind of Legislative Meeting. It's a tradition that at a first Legislative meeting a rookie has to get up on the table and sing their alma mata fight song. We'd appreciate that. You want to decline? All right. Good morning. And Christine, if you want to just put your name on the record.

MS. MALAFI:

Good morning. Christine Malafi.

CHAIRMAN ALDEN:

Okay. Now, why do you really want to come to work for the County of Suffolk?

MS. MALAFI:

I think the job as County Attorney is very interesting and challenging and something I'm looking forward to completing. I've been there a couple of weeks now and getting my feet wet with the entire department has been very interesting. We already have ideas to change -- to streamline and make everything more efficient in the office. It's my first job in the public sector. I've been in the private sector since I graduated law school. And it's interesting to be able to help the public and help everyone. And I really find this very interesting. That's mostly why I want to do it. I also feel that I can really be a benefit to the County and to the County Attorney's Office and to this board.

CHAIRMAN ALDEN:

You graduated in 1991 from Touro?

MS. MALAFI:

Yes.

CHAIRMAN ALDEN:

You are admitted in New York State?

MS. MALAFI:

New York State, Connecticut, Eastern District of New York Federal Court, Southern District, Second Circuit, Court of Appeals.

CHAIRMAN ALDEN:

To your knowledge, any complaints against you?

MS. MALAFI:

Absolutely none.

CHAIRMAN ALDEN:

And you have never been before a disciplinary board or anything like that?

MS. MALAFI:

Never.

CHAIRMAN ALDEN:

Legislator Nowick.

LEG. NOWICK:

Good morning.

MS. MALAFI:

Good morning.

LEG. NOWICK:

When you worked in the private sector, what kind of law did you practice?

MS. MALAFI:

Immediately before I left to take this designation, I was doing solely appellate work, insurance coverage litigation and any type of complex litigation. I was doing the Suffolk County -- I also was of Counsel to the County of Suffolk on some of their bigger cases; the Fire Island beach erosion cases, the East Hampton beach erosion cases and some of the coverage disputes between the County of Suffolk and its excess carrier. I did a lot of insurance coverage litigation and also New York City construction contract lawsuits.

LEG. NOWICK:

So you did insurance coverage for private and for municipalities?

MS. MALAFI:

I did it for -- actually, the insurance companies, I represented a few insurance companies. I represented private individuals in disputes against insurance companies, and I represented municipalities in disputes against insurance companies.

LEG. NOWICK:

Okay. Thank you.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

Good morning. I'd like to hear your comments on just what you anticipate doing differently than your predecessor within the office, particularly if you can focus on the areas of med mals and torts, etcetera.

MS. MALAFI:

With respect to the tort bureau and the medical malpractice lawsuits, which are currently handled by outside counsel for the County, we intend to work with risk management in mitigating potential future liabilities by assessing the risks involved in the current pending cases. And also in the cases as they settle, we will be doing the required memoranda and meanings with risk management to hopefully lower potential -- the number of potential lawsuits to come in to the County, for example, looking at how care is provided at health clinics throughout Suffolk County and also looking more into indemnification issues between the doctors and hospitals who service patients of the clinics. We also have some ideas for the General Municipal -- I'm sorry, the Municipal Law Bureau in following contracts between the County and outside vendors and other people so that those contracts can flow more smoothly through the building, through my office, through the Executive's Office. And we're modifying some of those contracts also. Those are our major focuses right now.

LEG. O'LEARY:

Okay. Is there any consideration in doing away with the outside counsel with respect to med mals and having it more in-house?

MS. MALAFI:

Right now -- we are not considering that only because of the fact that we would need to add at least eight to ten attorneys in the office in order to cover the malpractice cases. And that would be a significant increase in the budget, and it's also a very specialized field. The outside counsels that we have now have specialized in that area for -- I believe each of the firms has been specializing in it for over 15 years. So right now we don't have that in mind.

LEG. O'LEARY:

Okay. Thank you.

MS. MALAFI:

You are welcome.

CHAIRMAN ALDEN:

Does anybody have any comments or questions? Legislator Crecca wants to make a couple of comments and I guess ask a few questions too. But just to point out to you, in the past, there's been some comments made on the length of time that documents and agreements, contracts, things like that would take to be executed or actually developed by the County Attorney's office, just so you are aware, that's a general statement.

MS. MALAFI:

Well, we found out in the two weeks that we've been there, a little over two weeks, that there is no diary system for following up on contracts and agreements that go out of our office. So we immediately -- we already put that in place where if something goes out of the office, telephone calls are made to make sure it gets to where it's supposed to be going, telephone calls are made also now to make sure that if there's changes to be made, it's not sitting somewhere waiting for us. So we have already implemented that to get rid of that.

CHAIRMAN ALDEN:

Good. Even on the drafting end of it, that though, you know, there's been some comments made before this committee and other committees that it takes an inordinate amount of time to get, you know, a draft of things out. But just so you are aware of that. Legislator Crecca, you had some questions or comments.

LEG. CRECCA:

To follow up a little more specifically on some of the questions that Legislator O'Leary posed to you. You mentioned a desire to mitigate liabilities to the County in the area of torts. I guess my first question would be how do you intend to mitigate, what ideas do you have to try to mitigate some of those expenses?

MS. MALAFI:

Off the top, to make sure -- if a notice of claim comes in to the County and it has to do with a

defect on a road, be it design or something else, we would immediately put into works getting the Department of Public Works on the scene to examine and to see whether there really is a dangerous condition or making sure that experts in the area of road design can look at the roadway immediately to make sure that if there is a problem with the road design or the construction, that it's fixed before three or four accidents have to happen.

LEG. CRECCA:

The bulk -- not the bulk, but a lot of the lawsuits that the County faces come from either those who are driving, County employees or buses, but certainly one of the heaviest areas we have is lawsuits against the police department. And what, if anything, do you have planned as far as mitigation there, if at all?

MS. MALAFI:

Well, we will look at the allegations against each of the police officers more closely at the beginning of the lawsuits and then after the deposition in the lawsuits have taken place to see what the underlying facts of the alleged police misconduct is. We will address them with the Police Commissioner, and hopefully he will be able to put into place more training or more classes for police officers to make sure that things that happen with the public are either seen in the right light by the public, or if they're wrong, don't happen any more.

LEG. CRECCA:

Also as a follow up to Legislator Alden's comments, we have experienced in the last several years, sometimes at least since I've been in office, sometimes what could be characterized as -- or at least from this side of the table -- appear to be excessive delays in producing lease agreements, real estate acquisitions sometimes, and often that is -- the finger is pointed at the County Attorney's Office. I guess my question is just a little more clarity specifically in the area of leases and in the area of contracts especially on the Real Estate Division, what commitments can you give this Legislature as to whether or not that will be a priority in your office and how it will be handled?

MS. MALAFI:

One of the things I've noticed in being in the office is that it's -- and what I can bring to the office is my private sector experience. In the private sector, things can't sit for too long, you have clients who are top of you at all times. And in my office, I was responsible for helping the attorneys make sure everything was diaried. We call it diarying everything. If you had

something it never was not on a diary, you followed up at certain periods of time.

We have already started to implement in the office, so if somebody comes into our office to do a contract, we are -- myself and my Chief Deputy County Attorney right now have diared it ourselves to be on top of the attorney who is supposed to be doing the work to follow up with them to make sure it gets done. We are -- we have a little bit a problem in the Municipal Law Bureau right now because there is no chief -- there is no Chief of that bureau. That will be remedied soon, because we need someone overseeing those attorneys on a very close basis. We also -- my Chief Deputy and my Deputy and myself are all very hands-on people.

We plan on making sure lists are kept and followed up every week or so to make sure things are moving and nothing is sitting. And also we encourage everyone who feels there is a backlog to give us a call so we can follow up on it or give an explanation as to what stage the contract is in.

LEG. CRECCA:

Finally, I have just a general question regarding what you perceive your role as County Attorney to be, and I'll follow that up possibly with a follow up question. I know that's a really general question, so feel free to improvise.

MS. MALAFI:

I see my role as County Attorney to represent the County, represent the Legislature, answer any questions from any of the departments or bureaus and to basically be there for everyone in the County.

LEG. CRECCA:

I think, you know, you hit on a point, which is what I was hoping to hear you say, represent and that is that you the County and the County -- not just the County Executive's Office, but also the Legislature and the entire County. And for the most part we had a very good working relationship with the last County Attorney. I would hope that we can only improve upon that under your leadership, and I wish you well subject to you confirmation here.

MS. MALAFI:

Thank you.

CHAIRMAN ALDEN:

I kind of just have one follow up, and it springs from Legislator Crecca's line of thought. Do you feel that the lines of communication should be directly open between this Legislative body and this committee specifically and your office?

MS. MALAFI:

Absolutely.

CHAIRMAN ALDEN:

Good. So we don't really have to try to go through the County Executive's Office, we can proceed directly with you, then you take care of notification on that side if it's necessary.

MS. MALAFI:

Absolutely.

CHAIRMAN ALDEN:

Great. Legislator O'Leary.

LEG. O'LEARY:

Yeah. I just want to comment off of Legislator Crecca's comments concerning contracts. One of my concerns in my previous light was the lack of an expedited commitment on the part of the County Attorney's Office to execute contracts with various vendors throughout the County. Is that going to be a priority of yours, or are you aware of the fact that it was at times very, very slow and tedious to enter into a contract with a vendor, I'm talking specifically the health insurance, EMHP? I know for a fact that there was a period of time there where the vendors who were currently servicing the EMHP Committee was without a contract for months and sometimes years on end, yet they were providing a service, but not being compensated for it. Is there any way you can address that, how you can rectify and resolve that particular problem?

MS. MALAFI:

Absolutely. We have a commitment to making sure that everything is more streamlined including those particular contracts and also to make everybody aware during a contract negotiation or a contract preparation stage what the hold up is, or what the issues are, not

because it's not always going to be a hold up in my office. The contract might be out some where or we may have gotten a memo from the -- for example, the Association of Municipal Employees that holds up the next stage of a contract.

I know that right now there are meetings being held between the health care provider, the administrator and the Association of Municipal Workers and the County Executive's Office. That's why there is no contract in place right now. But, yes, we have a commitment to making sure that everything flows and that nothing is stuck in my office. And we will be following up with other departments constantly to make sure that what we need and what needs to be done is done. Absolutely. It's one of our highest priorities.

LEG. O'LEARY:

Are you saying that the municipal unions at times are at fault with the process?

MS. MALAFI:

No, absolutely not. It's not a fault, but just sometimes things are more complicated than they appear, and there are more committees that things have to be run through or more approvals that are needed than just coming from the office.

LEG. O'LEARY:

What would be a situation where AME would be in discussion with the administrator of EMHP?

MS. MALAFI:

Right now there's a meeting -- there was a meeting on Friday. They were all discussing, because they are deciding whether or not to continue with this particular provider or go to another provider. I believe they are going to stay with the current provider, but they are in negotiations now.

LEG. O'LEARY:

Wouldn't that be part of the RFP process?

MS. MALAFI:

Yes. The process was already begun before the new administration came in. I'm sorry. It's

the committee you're speaking of -- we're speaking about the same thing, I'm using different terms because of the letters that have been coming into my office have been from both --

LEG. O'LEARY:

Okay. All right. That was somewhat confusing to me. I didn't think AME had the ability to sit down with --

MS. MALAFI:

No, but they've been involved.

LEG. O'LEARY:

Okay. Thank you very much. I just want to echo Legislator Crecca's statements that we look forward to having a long professional relationship with you, and hopefully the lines of communication will be open with your office and this body.

MS. MALAFI:

I hope so too. I will do everything I can to help that.

CHAIRMAN ALDEN:

Any other comments or questions? Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Clearly it's been made abundantly clear here it seems that our primary concern is that we move the process expeditiously through the County Attorney's Office. That's been our primary concern. And you seem to be very well aware of it, you're looking at ways to proceed so that we do have a smooth process. And I congratulate you for taking a close look from the outset. And I wish you a great deal of luck and look forward to working with you.

MS. MALAFI:

Thank you.

CHAIRMAN ALDEN:

Any other committee members have comments, questions? I'm going to make a motion to take 1022 out of order, seconded by Legislator Lindsay. All those in favor? Opposed? 1022 is now before us.

**(P) 1022-2004. Confirming appointment of County Attorney of Suffolk County.
(COUNTY EXEC)**

CHAIRMAN ALDEN:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

I'd like to make a motion to approve.

CHAIRMAN ALDEN:

Okay. We have a motion to approve, seconded by Legislator Lindsay. All in favor? Opposed?

APPROVED. (VOTE:6-0-0-0)

That's the first step though. Now it goes before the full Legislature. But traditionally, you haven't been required or other appointees have not been required to come before the Legislative body, but it would probably be, you know, a good gesture on your part to come introduce yourself, in case there was a question by one of other Legislators. And I would suggest, you know, maybe setting something up with the Presiding Officer's Office now so that they can, you know, at least get you in there, and introduce you to the full Legislative body and possibly get you back to work in a quick manner.

LEG. NOWICK:

We want to get our money's worth.

CHAIRMAN ALDEN:

Thanks for coming down.

MS. MALAFI:

Thank you.

LEG. VILORIA-FISHER:

Thank you.

CHAIRMAN ALDEN:

Okay. We have one card. Michael Towers. Good morning. Just for the record, state your name.

MR. TOWERS:

Good morning. My name is Michael Towers, I am past president and board member of the Suffolk County Electrical Contractors Association. I'm also a member of the Electrical Licensing Board, which is appointed by the County Executive and approved by this body. I'm here basically to speak on Resolution 1004. And I'd like to start by congratulating Mr. Lindsay for bringing forth this legislation. It's something the groups that I've been with have been speaking about and hoping to see as law for a long time. And I'm just here to let you know that the organizations that I represent are definitely behind this legislation. We'd like to see electrical inspectors in our County licensed as are the electrical contractors in our County.

The only other thing I want to mention about this is that there's a section in this legislation that talks about how to certify electrical inspectors. And it's approval from or certification through the International Association of Electrical Inspectors. That is standard right now. Most of our electrical inspectors in the County have that certification, at least through the one and two family dwelling aspect of it. I don't believe that would bring any kind of a hardship on anybody, because I believe most inspectors have that certification now, and they -- you know, it shouldn't be a problem to ask them for that. That's all of I have.

CHAIRMAN ALDEN:

Any questions or comments from the committee members? No. Thank you very much. While we're waiting for two committee members to come back, I just hope everybody appreciates, we're doing a little experiment here in the County, in that we're creating -- it's not a sauna, but the dry heat, because we find that's good for breathing and your hair. So you'll have a lot of good hair days when we're done with you, and you'll be able to breath better.

LEG. VILORIA-FISHER:

You'll all have nose bleeds.

CHAIRMAN ALDEN:

Exactly. Enjoy the heat.

CHAIRMAN ALDEN:

Do we have anybody else who wants to address the committee? Christine, could you just tell me the status of the Scully property.

MS. COSTIGAN:

The Scully property is preparing for closing right now. We're waiting for the environmental report, and Judy Gordon's working on the management agreement.

CHAIRMAN ALDEN:

Great.

MS. COSTIGAN:

But there's no problem, it's just going through the ordinary course of getting ready for a closing.

CHAIRMAN ALDEN:

When do you think the closing might take place?

MS. COSTIGAN:

By the end of February.

CHAIRMAN ALDEN:

Good. Okay. Thanks.

LEG. VILORIA-FISHER:

Can we ask the man who spoke earlier to come back up, because I wasn't clear about something on the record.

CHAIRMAN ALDEN:

Mr. Towers, are you still here?

LEG. VILORIA-FISHER:

Mr. Towers, thank you for coming back up. I wasn't clear as to what your suggestion was and I was wondering if you could repeat it. I

couldn't find it in the legislation.

MR. TOWERS:

Okay. The International Association of Electrical Inspectors has three exams that certify electricians. One is one and two family dwellings. The other is electrical inspectors, and the other is, I believe, electrical plans review. The minimum standard that the -- I know that the towns are requiring now is the one and two family dwellings. The only thing I had to suggest was just to clarify that it would be one and two family dwellings minimum, which I was going to speak to Mr. Lindsay privately about, you know.

LEG. VILORIA-FISHER:

All right. That's the part I didn't understand what you had said when you mentioned it. Not been familiar with the three levels of exams, I wasn't certain what you had said.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Just to clarify, what this legislation is all about is we've licensed electrical contractors in Suffolk County probably for last 30 or 40 years, but we've never licensed the people that inspect their work, which is the inspection agencies. And it's been something within the industry that has been discussed for many, many years, and the industry feels it's a deficiency that who inspects the inspectors or who controls the inspector.

And that's the genesis of this legislation. There's only about seven inspection agencies. It really doesn't have any financial impact one way or the other. The electrical contractors test is designed and given by our Consumer Affairs Department. With this license, the legislation calls for an outside agencies to certify the inspectors, which we think would be a good idea because it would it would keep it really as an impartial measurement.

And the legislation is not specific, it leaves it open, Michael, so that the -- the licensing Board and the Consumer Affairs Department can implement some of the rules and regs of how it will actually work.

CHAIRMAN ALDEN:

Legislator Lindsay, I just have a quick question. Does this apply to or affect any of the towns or other municipalities that might do electrical inspections?

LEG. LINDSAY:

No. Only if they contract with an inspection agency, which most the them do.

CHAIRMAN ALDEN:

Now, does it also affect anybody that does the engineer reports for purchases of houses? Would that also be somebody that would fall underneath that?

LEG. LINDSAY:

No. No, it doesn't. It strictly deals with the electrical inspection agency.

CHAIRMAN ALDEN:

Okay. Great. Thanks.

CHAIRMAN ALDEN:

Mr. Towers, thank you. Anybody else want to address the board? Seeing no one, we're going to the agenda.

INTRODUCTORY RESOLUTIONS

**1001-2004 Authorizing the sale of County owned real estate pursuant to Section 215, New York State County Law to Elaine Ross Loreto and Jacqueline Pleet.
(CARACCIOLO)**

CHAIRMAN ALDEN:

Just a question of Counsel, is this of-right?

MS. COSTIGAN:

This is of right, Mr. Alden. It was considered by the committee last year. And the only reason it was refiled was that it was discovered there is a second owner due to an estate matter. This Jacqueline Pleet had not been on the title. So that's why you are seeing again, it but is as of-

right. And all the outstanding monies have been paid. In fact, they overpaid.

CHAIRMAN ALDEN:

Can we keep the overpayment?

MS. COSTIGAN:

Nope.

CHAIRMAN ALDEN:

Doesn't seem fair, does it? Motion by Legislator Viloría-Fisher, second by Legislator Nowick. All those in favor? Opposed? That's **APPROVED. (VOTE:6-0-0-0)** .

1002-2004 Authorizing use of Makamah Preserve in Northport by Northport Road Runners Club. (COOPER)

CHAIRMAN ALDEN:

An explanation. I apologize too, because I didn't call Legislator Cooper, I then found out Friday or Monday actually, yesterday, that Legislator Cooper has been replaced on this committee. I was thinking he was going to be here. He just had a conflict, so he asked to -- well, maybe it is something personal with me, but, you know, he just asked to be taken off this committee. So I was going to ask him today, you know, what this was about, but if somebody else has talked to him about it. Remember how last year, you know, like, Legislative Counsel would bring up sometimes about the County policy towards, you know, we can't just give things away, that a lot of times we have to charge something for it, so.

LEG. VILORIA-FISHER:

Actually, the County will receive consideration for \$187.50.

CHAIRMAN ALDEN:

That's why I just wanted to put it on the record, because, you know, I'm in favor of actually, you know, waiving sometimes those requirements if the organization is, you know, worthy of it and they do charitable type work, so.

LEG. VILORIA-FISHER:

Well, I'd like to make a motion to approve, because it seems very straight forward to me.

CHAIRMAN ALDEN:

That's great. You know, I'm comfortable with that. So we have a motion by Legislator Vilorio-Fisher, seconded by Legislator Nowick. All those in favor? Opposed? That's **APPROVED**.
(VOTE:6-0-0-0)

1004-2004 Adopting Local Law No -- 2004, to expand scope of Suffolk County Electrical Licensing to include electrical inspection agencies. (LINDSAY)

CHAIRMAN ALDEN:

I have a motion to approve by Legislator Lindsay, seconded by Legislator Crecca. All those in favor? Opposed? That's **APPROVED**. **(VOTE:6-0-0-0)**.

1005-2004 Adopting Local Law No -- 2004, amending Living Wage to provide conformity. (LINDSAY)

CHAIRMAN ALDEN:

I'd just ask the sponsor to give us maybe a brief explanation.

LEG. LINDSAY:

Most of the changes are really language changes that are cleaning up to make the law more workable. Some of the contract agencies have come to me and complained about how hard it was to operate under this -- this statute. The most substantive change is a provision that called for a contract agencies that fit under the bill would have to pay paid vacation to all employees including part timers. And some of the contract agencies where struggling with the accounting of -- because some of them only have people work like a day a month, and it became very onerous to the county. So that's the only substantive change, that it strikes the vacation thing for the part timers.

CHAIRMAN ALDEN:

Now, as far as the economic impact statement, because we don't really necessarily need it, because the economic impact would have to be on Suffolk County; is that correct, Legislative Counsel?

MS. KNAPP:

Technically economic impact statements are required with all local laws. But I believe -- but I believe that unless there's been one with a significant economic impact, we have not filed them at the time.

CHAIRMAN ALDEN:

Okay. So we have a motion by Legislator Lindsay.

LEG. O'LEARY:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator O'Leary. On the motion.

LEG. VILORIA-FISHER:

Do we need a public hearing on this, it's a local law?

CHAIRMAN ALDEN:

Yes. So that would be to table --

LEG. VILORIA-FISHER:

There's a motion to table?

CHAIRMAN ALDEN:

Right. For a public hearing.

LEG. VILORIA-FISHER:

I'm sorry, I misunderstood.

CHAIRMAN ALDEN:

So we have a motion and a second, all in favor? Opposed? Tabled for a public hearing.

TABLED. (VOTE:6-0-0-0)

1010-2004 Adopting Local Law no -- 2004, A Charter Law to reduce number of

County Legislative districts to eleven. (Caracciolo)

LEG. VILORIA-FISHER:

Motion to table.

CHAIRMAN ALDEN:

Why would you want to do that? Do we have a second?

LEG. LINDSAY:

I'll second.

CHAIRMAN ALDEN:

Seconded by Legislator Lindsay. All those in favor? Opposed?

LEG. CRECCA:

Abstain.

CHAIRMAN ALDEN:

Okay. 1010 stands **TABLED. (VOTE:5-0-1-0). (Abstention; Legis. Crecca).**

We have a little more work to do on that one, like maybe even reduce that number, right.

LEG. CRECCA:

I actually think the bill has a lot of merit.

CHAIRMAN ALDEN:

I do too if there was a lower number here, like maybe zero.

LEG. CRECCA:

And at that point, I would have Lynne Nowick incorporate my district into hers. I'm jumping out guys.

1012-2004 Directing Office of Legislative Budget Review to audit Legislative

vehicles. (CARACCIOLO)

CHAIRMAN ALDEN:

I think we took this up a little bit last year, so in speaking with the sponsor of this legislation, I think he is doing a little more work on it. So I'm going to make a motion to table, seconded by Legislator Vilorio-Fisher. All in favor? Opposed?

LEG. CRECCA:

I'm opposed.

LEG. O'LEARY:

I'm opposed.

CHAIRMAN ALDEN:

So we have one opposed. I'm sorry, we have Legislator O'Leary opposed also. **TABLED.**
(VOTE:4-2-0-0) (Opposed; Legis. Crecca and O'Leary)

1019-2004 Adopting Local Law No -- 2004, Local Law expanding first time homeowner County property exemption. (COUNTY EXEC)

CHAIRMAN ALDEN:

If we can have -- maybe Budget Review, did you -- Jim, did you get any analysis with this?

MR. SPERO:

We haven't done a fiscal impact statement as of yet on this bill.

CHAIRMAN ALDEN:

That would come from the County Attorney, wouldn't it -- County Executive rather?

MR. SPERO:

Come from the County Executive, that's correct.

LEG. CRECCA:

If you would, Mr. Chairman.

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. CRECCA:

Jim, if you would just make a call out to the budget people over there, there's a guy by the name of Pollert, I hear, who's over there now, ask them to expedite that. I think there's a desire by myself and others Legislators to expedite this through and not let it get delayed in the cycle. So if you can ask them to please forward over an impact statement.

MR. SPERO:

Will do.

LEG. CRECCA:

Thank you. I'll make a motion to table for a public hearing.

CHAIRMAN ALDEN:

Legislator Nowick.

LEG. NOWICK:

I just wanted to ask a question about it. What was the percentage of the tax break, how was that structured? This is a first time homebuyer, not a brand new house or just a homebuyer of any sort?

MS. KNAPP:

Thank you. Now, you are looking at 1018, there are a series of three local laws; 1018, 1019 and 1020. 1019 is the one for first time homebuyers. 1018 is the senior citizens. And basically what all three of these local laws do, they conform -- oh, I'm sorry.

LEG. VILORIA-FISHER:

We don't have 1018 on the agenda.

LEG. CRECCA:

Probably was assigned to Vets and Seniors.

MS. KNAPP:

They all do do the same thing. It conforms local to existing state law. Basically what it does it says if you meet the income guidelines set by SONYMA, State of New York Management Agency, if you meet those guidelines, you get a partial tax exemption for a period not to exceed five years. Maximum exemption is 50% in the first year, and it's phased out by ten percent each of the four years afterwards. Was your question what were the income guidelines?

LEG. NOWICK:

I just wanted to know what the percent was. So it would be five -- it's good for five years, the first year up to 50% off the County General or Police, which line on the tax bill?

MS. KNAPP:

I have to double check that and get back to you whether it covers both Police District and County.

CHAIRMAN ALDEN:

Come on up for a minute and identify yourself. Just put on the record who you are.

MS. ZUCKER:

I'm Marian Zucker, I'm the Director of Affordable Housing for the County. This is an expansion of a resolution that the County passed two years ago taking advantage of a state program that provided tax exemption for first time homebuyers, and it's for the County portion of the taxes.

LEG. NOWICK:

Just the County General.

MS. ZUCKER:

Just the County General. Each of the towns actually has to adopt it for their portion of the taxes as well.

LEG. NOWICK:

That would be 50%, then it's a 10%, 10%

MS. ZUCKER:

Phased in, yes.

CHAIRMAN ALDEN:

Marian, while you're there, I have one question after Legislator Lindsay.

LEG. LINDSAY:

So it's only on the County General, it's not on the Police?

MS. ZUCKER:

That's my understanding, yes.

LEG. LINDSAY:

Or the Courts?

MS. ZUCKER:

County General.

LEG. LINDSAY:

That isn't very significant.

MS. ZUCKER:

It's not very significant, but it is something. And as you know, every little bit helps.

CHAIRMAN ALDEN:

Just to interrupt for one minute. This is sponsored -- not sponsored by, it's authorized by New York State Law. So I think in the sponsoring Legislation they said that if all the jurisdictions, you know, below them would follow suit, it could add up to substantial savings for a first time homebuyer. But it takes all these little pieces to actually fall into the puzzle that they've created for us.

LEG. LINDSAY:

But my point in the question is the County taxes really are three lines alone, and we're only implementing it on one of the three lines. Forget about the towns for now. I guess, is general the smallest of the tax lines? Judicial is the smallest.

CHAIRMAN ALDEN:

We have a tax expert?

LEG. VILORIA-FISHER:

We have the Tax Assessor over there.

LEG. NOWICK:

The court -- the County Court is the lowest, it averages about \$30 and actually I think it went down this year. The County General is very low, but the Police, of course, is the highest. Of course, if you can get the other municipalities to follow suit, you would probably do much better for affordable housing. But it is what it is.

CHAIRMAN ALDEN:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair. I had the same question. I'll second the motion to table.

CHAIRMAN ALDEN:

I just have a quick question. Mariane, tax status date is March 1st, right?

MS. ZUCKER:

You're asking a tax question of a housing person.

CHAIRMAN ALDEN:

Let me shoot back to -- so tax status date is March 1st. Are we under the gun as far as getting this through? Because I would imagine that, you know, everybody, the municipalities that have to send out the tax bill, they are going to have to get notice of this and probably they would need it as soon as we could, because to apply -- you are going to have to apply for this, so.

LEG. NOWICK:

Is this going to be for tax year 2004-2005 or -- isn't it too late for the December -- the warrant we just passed?

MS. KNAPP:

Well, I believe Legislator Alden has made a good point, tax status is March 1st. I'm just thinking to myself though, there's no way we could have expedited this beyond the manner in which it's being presented.

LEG. VILORIA-FISHER:

It's a local law, you need a public hearing. We need to table it because of public hearing anyway.

CHAIRMAN ALDEN:

Right. What I'm trying to do is as much work in the committee so that if we're asked by anybody, you know, of the other Legislative members, then we can just explain to them that there might be, you know, a kind of expeditious handling of it or just explain to them that it probably doesn't look like March 1st, because what's really going to happen here is if this is reported, our Legislative District Offices are going to be swamped with calls, you know, how can I take advantage of that.

And to have to be able to tell somebody, you know, you want to be able to tell them the process that they're going to have to use and whether they can expect to have it this year or maybe next year. So that's something that we're going to have to develop as this goes through the public hearing. So we have a motion and a second to table it for a public hearing. All those in favor? Opposed? It stands **TABLED** for a Public hearing. **(VOTE:6-0-0-0)**

1021-2004 Reforming County sick leave pay policy for exempt employees. (COUNTY EXEC)

LEG. CRECCA:

Motion to -- actually, withdrawn, never mind.

CHAIRMAN ALDEN:

Hi. Just identify yourself for the record.

MR. TEMPERA:

Good morning. Jeff Tempera, Director of Labor Relations. Actually I just wanted to explain what the legislation does and if any of the Legislators have any questions. In 1988, we -- the

Legislature, passed Resolution 659 of '88 on affordable benefits for management employees. That was amended in 2001 by 655 of '01. In effect one of the provisions in 655 of '01 changed the payout for sick time for sick time earned under the management salary plan. There was no payout for sick time prior to 2001. 655 of '01 made the payout one for two, 90 for 180. This repeals that section alone of 655 of '01 and brings back that the management time that's on the books for sick time would not be compensated.

CHAIRMAN ALDEN:

Legislator Crecca.

LEG. CRECCA:

Mr. Tempera, currently our union employees have this benefit; is that correct?

MR. TEMPERA:

That's correct.

LEG. CRECCA:

In the two terms that I've served here, we have always followed suit with our exempt employees as to the benefits that we give to non-exempt employees. Are you aware of a policy that's been different during the last four years?

MR. TEMPERA:

Well, actually going back to 659 of '88, this resolution was passed in -- I forget what date in 1988 -- with the discretion of Labor Relations to seek the same benefits with the unions. Sick time is ten days accrued per year, the unions will get 13 days. Management is capped at either 20 or 25 days per year depending on years of services. The unions get up to 30 days per year. So there are different benefits between management and the union. The direction back in '88 was to try and negotiate with the unions the benefits of 659 of '88.

We have had on the table almost every year with the unions a roll back with these benefits, and for various reasons they have never been negotiated into the union contracts. The unions have various payouts, it's different between some of the police unions, some civilian unions as to their sick time, the caps on the sick time. So it is different between management and the various unions.

LEG. CRECCA:

I guess, what is the current policy with AME, the largest municipal union?

MR. TEMPERA:

AME is one for two, 180 for 360.

LEG. CRECCA:

My question would further -- do you know what the fiscal impact is of this resolution?

MR. TEMPERA:

It was being looked at up in the Budget Office the other day, but it's difficult to pull the number out, because there is a payout just in general for sick time for management employees. There's approximately, I think, as of January 15th, 417 management employees. In 2001, I believe, 17 management employees retired. That was the year of the early retirement, I believe. In '02, I believe five management employees retired. So I don't have the exact numbers for you, but it's the newly accrued sick time, it doesn't affect any of the frozen sick time that may be in the bank for either members of the unions that have been promoted into management or any management employees who had time on the books pre 1/1/89.

LEG. CRECCA:

For the benefit of my fellow Legislators and for anyone there, the resolution refers to a budgetary multi year deficit of approximately 200 million for 1005. I just want to make it clear, while this may look good on paper, the actual fiscal impact for 2005 is minuscule at best. You're talking about what's most likely, without an early retirement incentive plan, a handful literally of employees that may be retiring, and you're talking about a couple of days of pay is the difference. So anyone who's under the impression that this will have any type of impact whatsoever on the 2005 budget is mistaken.

And I will state now publically that I have always maintained the policy on our exempt employees, which we do not -- well, I shouldn't say we don't say allow, but people are not unionized and are -- should be treated the same as our other employees. The fact of the matter is, is that to treat them any other way is unfair and sort of makes them second class employees. And for those reasons, I will not support this. And I also will not support this because I believe it is for show and something that is not of any significant fiscal impact. And I

would suggest that unless and until -- and I don't suggest that this should happen, but unless and until the union contracts are renegotiated, we should maintain the same benefits for our exempt employees that our union employees enjoy. If anything, they enjoy less of a benefit now, not more of a benefit. And we shouldn't penalize them because we require them to be exempt.

MR. TEMPERA:

If I may just respond for a moment. I don't disagree with you, I think the management people should be properly compensated, but this is a tool in negotiations, it does send a signal to the unions that this is something that's a priority for the County, it would be on the table.

Obviously, it's something we would go after with our largest civilian union, and it sets -- it sets a tone that the County is serious about going after this.

LEG. CRECCA:

It also sets the tone that we are going to use our exempt employees as pawns in a negotiating tool. I think the unions are well aware of Mr. Levy's intentions in negotiation. And, you know, that's his right as County Executive and his obligation to negotiate a contract with the unions. But I will not use the dedicated County management employees as pawns in a union negotiation game, okay? Let him go negotiate.

Certainly I'm sure that whatever is negotiated, if we -- if it is approved by this Legislature subsequently, I'm sure that as we always have done, we will follow similar or the same policy for our exempt employees. But I will not use our exempt employees as pawns in union negotiations.

MR. TEMPERA:

I'm going to just point out, we do have different benefits for management and the unions now.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

Yes. Mr. Tempera, was it your statement that the proposed projected saving on this has not been determined yet?

MR. TEMPERA:

You'd have to direct that to either Budget Review or to the Budget Office, but I'm unaware of what the --

LEG. O'LEARY:

But out of the County Executive's Office, there hasn't been a report or a statement to the effect of what the projected savings would be?

MR. TEMPERA:

You'd have to direct that to the Budget Office.

LEG. O'LEARY:

The bill -- the resolution is from the County Executive's Office. I would think that they would have done some analysis of a proposed resolution changing the benefits of exempt employees and what the impact would have been. Has that been done?

MR. TEMPERA:

I know they were working on it, but again, as I stated previously, there was difficulty since they don't break out frozen time from newly accrued time. I know in Audit and Control when they do a payout, they have a line item for sick time. I just don't think they differentiate between what time, and that then entails a review of each and every person who retired. And I think that's something that they may be looking at right now, but I don't think it's been completed.

LEG. O'LEARY:

Until such time that that is done and completed, I have to concur with my colleague, Legislator Crecca, that this seems to be an attempt on the Executive's part to place a burden on the benefits that the exempt employees have obtained on the -- on the bargaining units within the County. I would oppose this as written, and I would oppose this as something that is being done to affect and impact the future with the municipal unions at the table.

CHAIRMAN ALDEN:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair. When we are facing a budget deficit in the levels that are existing right

now, it is very -- it's imperative for us to look at any cost savings that might be available to us and to character any cost saving as being spent -- I'm not quite certain what the word was that Mr. Crecca used -- is an unfair characterization. One has to look at when there has been a commitment to the people of Suffolk County to be as fiscally responsible as possible, it's important to look at any way we can to save money.

I don't believe that the exempt employees are being used as pawns. That's another weighted characterization. The word pawns being quite -- having quite a negative connotation. The exempt employees as you have said, Mr. Tempera, are beneficiaries of different management considerations and packages. So I don't believe they are being used as pawns. Our first consideration is the taxpayers of Suffolk County who are being very heavily burdened and the government of Suffolk County, which is crushed under state mandates, which are difficult for us to meet.

And so it is imperative that we look at every cost savings strategy that we can possibly address, this being one of them. And it has my full support. I believe that the County Executive at this early point in his tenure and his team is making every effort to provide us with the numbers that we need. As you have said, Mr. Tempera, they are very fluid numbers because of the -- the varying degrees of percentage of people who are retiring at any given year. And so getting a handle on exact figures are difficult. But we do know, whether it's a small cost savings or a large cost savings, it will be a cost savings for the people of Suffolk County.

MR. TEMPERA:

Absolutely. If I might just add to that, we're talking about rolling back a resolution to the terms that had been in effect since January 1, 1989. Through January -- January 1, 1989 through some time in 2001, those -- the terms that this resolution addresses; no payout for sick time, had been in effect and management has worked under those rules, employees have retired over that period of time. This resolution changed that status in 2001. And in effect, it's just rolling it back to before that point. And it will not affect anyone who is retired from the point of implementation, 655 '01 to January 1 of '04.

CHAIRMAN ALDEN:

When you say this is covered -- or covers management, there's also people that earn pretty close to minimum wage on this, isn't there?

MR. TEMPERA:

No. 659 of 1988 covers any management employee who is earning over \$40,000 per year. So it wouldn't be minimum wage employees.

CHAIRMAN ALDEN:

Okay. But it leaves in place the number of sick days they get each year; is that not correct?

MR. TEMPERA:

That's correct.

CHAIRMAN ALDEN:

Okay. I find it a little bit confusing then, because what you're telling somebody is in your benefits package and your pay package, and that's where you choose whether you come to work here or go to work some place else, and we want -- we want to encourage the brightest and the best to come work for Suffolk County because we want to progress and we want to provide the best government that we can for the people.

So we're telling them, we're going to pay you this, but when you come to work here, use your sick days. So in other words, short change the people of Suffolk County. If you're healthy all year long, don't save those sick days, because we're going to take them away from you. So go out and use them.

And to me that's counterproductive, because you're going to have the best and the and brightest coming here, and that's what we're trying to do, we're telling them this is the pay package we're going to give them, but we're telling them if you don't go and take advantage of these sick days legally, we're going to just take that money away from you, so that pay package is just a myth that we're offering you, it's just a sham or smoking mirrors, whatever, because at the end when it's all said and done, we're going to take that money away from you. So what we're telling you is, but you know what, just use your sick days.

So how does that help the people of Suffolk County? Do they get a fair share? I'm not so sure that they do. They don't get the fair shake, because now we're encouraging a useful productive person -- and I think the message we should send to our work force is that we like you, we

appreciate you, we appreciate you taking on the added burdens that early retirement has cast upon you, and we appreciate you stepping up to the plate to provide the services for the people in Suffolk County. I think this is actually counterproductive.

In the bus business, which I was in a number of years ago, we had thousands of employees, and we actually gave them sick days. And if they didn't use them, we gave them a bonus on top of that, because it cost us more to bring in employees and it cost us more in lost production time for them to even take advantage of their sick days. So, you know, that study might be a little bit dated, but you know what, I don't think people are. I think people's nature is the same today as it was ten or 15 or 25 years ago when we were in the bus business. And we rewarded those people that when we gave them a pay package, they did everything they were supposed to do, but they didn't go out and they didn't call in sick. And we gave them an extra day at the end of it for not calling in sick. We rewarded perfect attendance and the productivity for that cause, in this case, it would be for the people of Suffolk County.

So I'm not so sure you guys are on the right track. And I really would submit that, you know, go back and give it a little bit more thought. Plus, this is deficient in that you are not telling us any numbers. You haven't come before us and said, we're going to save one dollar, a thousand dollars, a million dollars, ten dollars, whatever it is. So those are my comments, and now I'll entertain a motion.

LEG. LINDSAY:

I want to be recognized.

CHAIRMAN ALDEN:

I'm sorry. Legislator Lindsay.

MR. TEMPERA:

Again, just one more comment to respond. I've got this bad habit of responding, as I've been told in the past. However, I don't want you to lose sight of the fact that the County since January 1, 1989 has been recruiting management employees. Management employees have come here with the full understanding that this is the package of benefits under which they are coming to work for Suffolk County.

CHAIRMAN ALDEN:

Up until when, though?

MR. TEMPERA:

Up until 2000 -- sometime late 2000 what? It was late August of 2001.

CHAIRMAN ALDEN:

So County policy changed in 2001.

MR. TEMPERA:

County policy changed in 2001, and I don't believe during that period of time, and I could be wrong, that someone has turned down a job saying that I'm not going to come to Suffolk County, I'm not going to come on board to serve the public because I'm not going to receive payment for these sick days. People -- sick time is for use for legitimate sick purposes. It's not to be used as a payout at the end. It is for people who are sick. And that's has been the policy in the County since time of eternity.

CHAIRMAN ALDEN:

They said they're going to use this as a hammer to negotiate into the union contract. Legislator Lindsay, sorry.

LEG. LINDSAY:

Let's go back to the beginning. What is the policy now, if you retire you get paid for half of the sick time you accrue?

MR. TEMPERA:

Ninety for 180, correct.

LEG. LINDSAY:

Okay. So you can't go beyond the 90 days.

MR. TEMPERA:

That's correct.

LEG. LINDSAY:

Okay. Do you have any idea of the 400 exempt employees, how many of those folks are not in a supervisory level, like, I know all our aides are in that exempt category, I guess, secretaries or assistants to top echelon?

MR. TEMPERA:

I can get you a break out of Bargaining Unit 21. But Bargaining Unit 21 includes all of the County Attorney's Office, Assistant County Attorneys. It includes all of the District Attorneys. It includes the Board of Elections. It includes the unclassified non union members at the college, and it includes the -- for lack of a better term -- general management employees throughout the County.

LEG. LINDSAY:

The number was five people retired last year. I know this has been asked a few times, do we know what the payout was on those five people?

MR. TEMPERA:

I don't have the exact numbers, but I --

LEG. LINDSAY:

Do you know, Jim?

MR. SPERO:

No, I don't. We can contact the Comptroller's Office and ascertain that information.

LEG. LINDSAY:

I think that's important to us to find out just how much money we're talking about.

Mr. Tempera, you have been in Labor Relations, I guess, your entire life, and you are probably very familiar with public sector labor law. Are these exempt employees, can they be organized into a union of their own?

MR. TEMPERA:

No, they cannot. The only thing that I think comes close to it is with the state employees, they have an association. And they cannot collectively bargain, but as an association, they use their numbers to influence the State Legislature.

LEG. LINDSAY:

That's PERB.

MR. TEMPERA:

That's through New York State PERB, the Taylor Law.

LEG. LINDSAY:

Okay.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

Yes. Mr. Tempera, you made a statement that it's not the intent or purpose of having sick time to pay for same, is that accurate, the statement you made?

MR. TEMPERA:

I think the statement was it's not to pay for it, and if I didn't make it clear, as a parachute when someone retires. It's for legitimate sick purposes.

LEG. O'LEARY:

Okay. Isn't it your experience, and it certainly is mine, so I would assume it has to be your's as well, that when you have an incent not to call in sick when there is a payout so to speak when you leave service, that that's an incentive to the employee whether they be exempt or a bargaining unit employee not to call in sick on a whim, if you will, if they are not, in fact, sick which oftentimes occurs I believe? But when you have an incent in place, doesn't the record reflect that there is less sick time utilized by its employees, both exempt and union?

MR. TEMPERA:

I can tell you for a fact it is that way within the unions. However, I think when you are dealing with the upper management within the County, people take those jobs for different reasons, you are dealing with your deputies, your assistants to the commissioners, you are dealing with, again, the different County Attorneys, attorneys in the DA's Office. I think when you are

dealing with the upper management in the County, the incentive to come in is possibly a little bit different than it might be within the unionized ranks. I think employees, your deputies and such are coming into work, and they're not influenced by the pay package. I don't think they are influenced by the sick time. I think they have work to be done. Take myself, for example, I come into work many times where I haven't been feeling well, but it's not because I have or don't have a sick day available to me.

LEG. O'LEARY:

I understand that. Have you ever done a comparison between municipal employees who have an incent package as opposed to perhaps the private sector who do not have incent package and compare sick time?

MR. TEMPERA:

No, I have not. Are you aware of one that exists? I'd be happy to look at it.

LEG. O'LEARY:

Yes, I am, and I will speak to you after the meeting. And you will be very surprised that those with the incent are for some reason a lot less sick than those without.

CHAIRMAN ALDEN:

Legislator Nowick, then Legislator Lindsay.

LEG. NOWICK:

One of my concerns here is we're asked to -- we're being asked to vote on something where we don't even know the fiscal impact, which seems to me should be a big part of this package if the idea is to save money here. And the other point I wanted to make, and I agree with Legislator Crecca, is that our exempt employees work just as hard as anybody else, deserve just as many of the benefits, if you will. And the other thing that they have to always have in the back of their minds is they work at the discretion of the elected official or whoever is in power, so they always have in the back of their mind they can lose their jobs. This is not a group of people that should be singled out. They work just as hard as anybody else, they deserve the same benefits as anybody else. And we don't even know what we can save, if we can save anything at all. So I'm not going to be able to support this today.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

From a historical perspective, you said this policy has been in effect since '01, is there something that triggered that? Did something change in the negotiated packages that was the incentive to include this in the exempt package?

MR. TEMPERA:

I wasn't in the Office of Labor Relations at the time. I know it had been something that had been contemplated for many years. I believe we had some contract settlements that may have become effective in 2001, and the then County Exec decided to put this resolution in to change the payout from nothing to 90 for 180.

LEG. LINDSAY:

And again, this would only take place, this payout, if a person physically retires from the County, doesn't leave the County to take another job or something like that; am I correct?

MR. TEMPERA:

It's retirement. I can give you the exact language. It's retirement, resignation, termination or death no exempt employee will be granted payment for sick time. Right now if you retire, you are paid the sick time.

LEG. LINDSAY:

If you leave to take another job, you're not paid?

MR. TEMPERA:

That's correct.

LEG. LINDSAY:

If you should die, your heirs don't get the money?

MR. TEMPERA:

I'd have to check on the death provision, I'm not sure on that off the top of my head. But certainly in the union contracts basically it's a retirement provision.

CHAIRMAN ALDEN:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Is there a length of stay provision in that, for example, is it people who retire after having worked ten years or five year or anybody?

MR. TEMPERA:

You have to be eligible to retire under New York State --

LEG. VILORIA-FISHER:

Which is five years at least with the County.

MR. TEMPERA:

It's been ten years with the County. You're vested after five years, but you are eligible for the full retirement after ten years. And I don't believe that we've done the payout of sick time for anyone who'd left after five years.

LEG. LINDSAY:

You have to be a certain age.

MR. TEMPERA:

You have to be -- well, depending on the bargaining units you are in, the police retirement system and --

LEG. VILORIA-FISHER:

But we're talking about exempt here.

MR. TEMPERA:

The exempt you have to be either 55 or 62 years old unless they are doing an incentive where they lower the time.

LEG. VILORIA-FISHER:

Has there been any comparison in the use of sick time between the Year 2000 and years after that, have management employees taken a lot less -- a significant number of days less after

that period of time?

MR. TEMPERA:

I'm not aware that there's been any analysis.

LEG. O'LEARY:

Mr. Chair.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

If I may, just a point of clarification. Legislator Lindsay, are you under the impression that this only applies to those who retire from service? Because that's not the case. It's if you resign you will be compensated as well.

MR. TEMPERA:

No, you are not.

LEG. O'LEARY:

According to the -- let me just read the proposed resolution. Effective January 1, 2004, upon separation of County service by retirement, resignation, termination or death.

MR. TEMPERA:

And I think if you go on it says that no exempt employee shall be granted payment by the County for unused sick leave days.

LEG. O'LEARY:

Well, currently those who resign, do they receive the benefit of the accumulated sick time?

MR. TEMPERA:

Absolutely not.

LEG. O'LEARY:

So it's only if they retire from service that they obtain it.

MR. TEMPERA:

The only question I have is whether it applies to someone who dies in service, but certainly it's not a greater benefit than it's been in effect in the past, which is only upon retirement.

LEG. O'LEARY:

So then this is -- this is even less financially burdensome upon the County, because more than likely an exempt employee would be resigning rather than retiring. Do you know the comparison between the two? How many exempt employees have resigned or terminated their service as opposed to retiring from services?

MR. TEMPERA:

Well, let's put it this way. I think anybody who is eligible for retirement retires. I wouldn't know of an employee who would be eligible for retirement that would resign. And in effect, I think that rules are that even if you resign, if you retire within a certain period of time and collect your pension you would be eligible for sick pay.

LEG. O'LEARY:

So in effect then, the only employees -- the exempt employees that are being targeted are long serving employees who have spent a considerable amount of time in service for the County who retire, and even more so why this resolution should not be furthered -- considered by this body.

MR. TEMPERA:

I don't think it's targeting employees, I think it's targeting a practice. And the practice in the County since January 1, 1989, has been not to make payment for management sick time. And it was only changed as of, I believe, August of 2001. This is simply returning the practice to what the long standing policy of the County had been from 1989 on forward.

LEG. O'LEARY:

In contrast to your statement, reforming a County sick leave policy for exempt employees is in effect targeting a group of employees within the County, exempt employees.

CHAIRMAN ALDEN:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

What was the -- what was the policy before 1989?

MR. TEMPERA:

Before 1989 --

LEG. VILORIA-FISHER:

Up until 1989.

MR. TEMPERA:

Up until 1989, it had been that management received the same benefits as whether it was CSEA in the early years and AME.

LEG. VILORIA-FISHER:

Okay. Then in 1989 it changed?

MR. TEMPERA:

Then in 1989, the affordable benefits package I think is the terminology that was passed, it changed the payout for sick time, it changed the payout for vacation time, it froze benefits of time you had so no one was harmed in terms of benefits they had before the payout was changed for frozen sick time to either --

LEG. VILORIA-FISHER:

That was all for exempt employees.

MR. TEMPERA:

This is all for exempt employees.

LEG. VILORIA-FISHER:

Is that the 665 you mentioned?

MR. TEMPERA:

659 of 1988, correct?

LEG. VILORIA-FISHER:

That you mentioned earlier. And that's what made exempt employees ineligible.

MR. TEMPERA:

That's correct. That set up the --

LEG. VILORIA-FISHER:

Then in 2001 that was reversed -- we reverted back to the pre 1989.

MR. TEMPERA:

It didn't go as far as pre '89. Pre '89 was 180 for 260. This does 90 for 180.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Someone's in the system now, they are about a year away from retirement, they've been a loyal employee and probably have more than 180 days in sick time accrued which means they would get the max of 90, if this resolution passes it will undo that; am I correct.

MR. TEMPERA:

Well, again, you have to understand that there are different categories of sick time. This management sick time only began accruing as of 1/1/1989 or upon someone's promotion or hiring into the management ranks. Any time pre 1989 was frozen.

LEG. LINDSAY:

In other words, they came out of the negotiating -- the bargaining unit, we can't take that away from them.

MR. TEMPERA:

That time is unaffected. So anyone who came from the union, had previous time that they promoted, that time was frozen, is payable pursuant to -- well, it's two different classes. Without getting complicated, I'll deal with anyone who was promoted after 1/1/89, that time is

frozen, computed as to dollar value and payable pursuant to the collective bargaining agreement. That time is unaffected by this resolution.

LEG. LINDSAY:

Any perceived benefit that was accrued from '89 on by virtue of the legislation in 2001 would be just wiped away; is that correct?

MR. TEMPERA:

It would roll it back to the pre '01 process of no payment for sick time. For the management sick time. Make let me make that clear.

CHAIRMAN ALDEN:

Anyone else? Okay. I'll entertain any motions. Oh, I'm sorry. Legislator Nowick.

LEG. NOWICK:

What made the change in 88-89? What was the reason for that?

MR. TEMPERA:

Actually, what occurred in 1988, was then Police Commission Jim Caples left the Police Department. He received a sizeable payout. He ran against -- he ran for the Assembly and lost, but it came to light that certainly in the Police Department that there was large payouts, and this resolution was drafted. It changed the management benefits, and thereafter, the chiefs within the Police Department went back into the union, because there was a clause in the union contract. But it all flowed from a payout in 1988 to then Commissioner Jim Caples.

LEG. NOWICK:

But this doesn't affect the Police Department.

MR. TEMPERA:

This would only affect the Commissioner and I believe the Deputy Commissioner. I don't know what other exempt employees may be within the Police Department. But anyone's who within a bargaining unit is unaffected by this resolution, which is up through the Chief of Patrol -- the Chief of the Department.

LEG. NOWICK:

So in '89 when that change was made that did affect the Commissioner and the Deputy Commissioner, and this will also affect the Commissioner and Deputy Commissioner of Police?

MR. TEMPERA:

Correct.

CHAIRMAN ALDEN:

Any other comments? I'll entertain a motion. Fails for a lack of a motion.

LEG. LINDSAY:

I'm going to make a motion to table. I think we need more facts and figures on this.

LEG. VILORIA-FISHER:

We need the fiscal impact statement.

CHAIRMAN ALDEN:

We have a motion to table by Legislator Lindsay, seconded by Legislator Viloría-Fisher. All in favor? Opposed?

LEG. CRECCA:

Opposed.

LEG. O'LEARY:

Opposed.

CHAIRMAN ALDEN:

Opposed.

LEG. NOWICK:

Abstain.

CHAIRMAN ALDEN:

Abstain, okay? It **FAILS. (VOTE:2-3-1-0) (Opposed; Legis. Alden, Crecca, O'Leary) (Abstention; Legis Nowick).**

1022 was approved previously in the meeting.

1026-2004. Adopting Local Law No -- 2003, a Local Law to establish item pricing inspection waiver schedule within Suffolk County based on price accuracy. (ALDEN).

CHAIRMAN ALDEN:

I'm going to make a motion to table, seconded by Legislator Crecca. All those in favor? Opposed? It stands **TABLED. (VOTE:6-0-0-0).**

1028-2004. Filling vacancy in the 15th Legislative District. (CARACAPPA)

LEG. CRECCA:

Motion to approve.

LEG. O'LEARY:

Second.

CHAIRMAN ALDEN:

Motion to approve by Legislator Crecca, seconded by Legislator O'Leary.

LEG. CRECCA:

It sets the date as March 9, 2004 for a special election to be held in that district.

LEG. VILORIA-FISHER:

I just wanted it stated for the record so people here would know.

CHAIRMAN ALDEN:

It's actually very sad that we have to take this action.

LEG. CRECCA:

But very necessary.

CHAIRMAN ALDEN:

But necessary. All those in favor? Opposed? **APPROVED. (VOTE:6-0-0-0)**

SENSE RESOLUTION

No. 1. Memorializing resolution requesting State of New York to establish school district subsidy for affordable workforce housing. (BINDER)

LEG. O'LEARY:

Motion.

CHAIRMAN ALDEN:

Motion by Legislator O'Leary, seconded by myself. All those in favor? Opposed? **APPROVED. (VOTE:6-0-0-0)**

Anybody else have any business to come before this committee meeting?

LEG. CRECCA:

Absolutely not.

CHAIRMAN ALDEN:

None? We stand adjourned. Thank you.

(* THE MEETING WAS ADJOURNED AT 10:55 A.M. *)

{ } DENOTES BEING SPELLED PHONETICALLY