

**WAYS AND MEANS**

**COMMITTEE**

**of the**

**SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Ways and Means 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 Thursday, October 12, 2006.

**MEMBERS PRESENT:**

Legislator Lou D'Amaro • Chairman

Legislator Elie Mystal • Vice•Chairman

Legislator Steve Stern

Legislator Ricardo Montano

Legislator John Kennedy

Legislator Edward Romaine

**ALSO IN ATTENDANCE:**

George Nolan • Counsel to the Legislature

Gail Vizzini • Director, Budget Review Office

Renee Ortiz • Chief Deputy Clerk of the Legislature

Ben Zwirn • County Executive's Office

Pat Zielenski • Real Estate Division

Jacqueline Caputi • County Attorney

All other interested parties

**MINUTES TAKEN BY:**

Donna Catalano • Court Stenographer

**( \* THE MEETING WAS CALLED TO ORDER AT 10:36 A.M. \* )**

**CHAIRMAN D'AMARO:**

Good morning, everyone. Welcome to the Ways and Means Committee. I'd like to start off by asking everyone to please rise and join in the Pledge of Allegiance led by Legislator Montano.

**SALUTATION**

**CHAIRMAN D'AMARO:**

Okay. There are no cards this morning for any public comments. Is there anyone present who would like to address the Ways and Means committee before we turn to our agenda? Very good. Then we'll look to agenda first. Going to Tabled Resolutions.

**1792, A Charter Law to ensure a non-partisan, fair, and objective process by which Legislative Districts are reapportioned.**

**LEG. MONTANO:**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion by Legislator Montano to table, I'll second. On the motion? I'll call the vote, All in favor? Opposed? Abstentions? Motion carried. **TABLED (VOTE: 6•0•0•0).**

**1793, A Local Law prohibiting the impermissible use of copyrighted materials on County owned or operated facilities.**

**CHAIRMAN D'AMARO:**

Okay. Is there any motion?

**LEG. MYSTAL:**

Motion to table.

**LEG. MONTANO:**

Second.

**CHAIRMAN D'AMARO:**

Motion to table by Vice•Chair Mystal, seconded by Legislator Montano. All in favor? Opposed? Abstentions? Motion carried. **Tabled (VOTE: 6•0•0•0).**

**1797, Authorizing the sale of Brownfield property tax liens at public auction.**

**LEG. MYSTAL:**

Motion to approve.

**LEG. MONTANO:**

Motion to table.

**MR. ZWIRN:**

If we could just ask this be tabled one more cycle, just a few tweaks that we're trying to work out.

**LEG. MYSTAL:**

It's your bill, you can do whatever you want.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal, once again, seconded by Legislator Montano to table.

**LEG. ROMAINE:**

On the motion.

**CHAIRMAN D'AMARO:**

On the motion, Legislator Romaine.

**LEG. ROMAINE:**

Yes. On the motion, while this has some •• this bill has a noble purpose to it, I would suggest since the County Exec is still intent on doing some tweaking, that some tweaking might include a time table if we sell this brownfield property for remediation. There is no requirement that anyone who buys these at bargain sale prices because they are brownfields will clean them up. We are just looking to pass on our liability, which I understand is a worthwhile purpose, but beyond that, we should require from this legislation perhaps within 12 months of closing, a start of remediation, and that remediation to be completed 24 months thereafter.

In sum total, giving the property owner three years to remediate the property. Otherwise, the brownfield problem, the contamination problem, will exist. It's good that we got rid of our liability, it would even be better if we saw the property cleaned up, particularly if people are going to be buying these properties at bargain sale prices because they are brownfields, one of the hopes would be that the remediation would take place. And I would suggest that tweaking for the record. I think the County Executive would be well advised, and it certainly would make this bill more palatable. Thank you.

**CHAIRMAN D'AMARO:**

Okay. Legislator Montano.

**LEG. MONTANO:**

Ben, I want to thank you for amending the ••

**CHAIRMAN D'AMARO:**

You need to use the microphone.

**LEG. MONTANO:**

I'm sorry. I just wanted to thank you for amending the bill to include •• or exclude rather those two properties in my district that were subject to a prior resolution for development. And, you know, just for the record, I did meet last week with the Town of Islip Planning Commissioner, and there are some very real plans to develop these properties in a positive way. And thanks a lot for that. That was my issue in terms of tying up the property. You know, hopefully we could move forward with this.

But I did have a question for the County Attorney's Office, because I had spoken with the County Attorney and an Assistant County Attorney a while back, and I'm trying to get a status, and I know you're unprepared because I didn't ask for this earlier, but my office is in the process of sending a letter, we would like to know, do you have any idea what the status of the implementation of the two resolutions dealing with the two properties in this bill, that's Liberty Plating and the {Mackenzie} Chemical Plant?

**MS. BIZZARRO:**

No, I don't know.

**LEG. MONTANO:**

All right. Could you do a favor? We're going to send out a letter •• as I said, we're in the process of drafting it now, but we simply would like to hear from the County Attorney's Office or, you know, either the County Attorney or the Assistant as to where we stand on implementing, that is acquiring these two properties, finding out what the cleanup liens, if any, are, what status the cleanup is with respect to these properties and whether or not we can move forward, because we're at the point now that we really want to get this thing rolling.

**MS. BIZZARRO:**

Yes.

**LEG. MONTANO:**

We'll follow this up with a letter, but, you know, please know that at by the next meeting we'd like to get a status.

**MS. BIZZARRO:**

Absolutely.

**LEG. MONTANO:**

And if you can send me something in writing that would be •• I would appreciate that.

**MS. BIZZARRO:**

Yes.

**LEG. MONTANO:**

Thank you.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Kennedy, please.

**LEG. KENNEDY:**

Okay. Ben, I would ask also, as you know over the course of a couple of meetings, I had some questions about how the Tax Act, you know, impacts this and comes into play. So if there's •• and questions about definitions as well. So if there's revisions that are going to be made to that, if I can get an

opportunity to see a draft or have a conversation with whomever it is that's working on that, I'd have some questions there.

Also, one of the things that Legislator Romaine brought up, I guess, as far as time frame, I'm not so certain about the time frame as far as remediation, because remediation, while in some cases may be able to be done in 18 months, in some cases, like over on Oser Avenue, we've got a project that gone on now about eight or nine years, I think. So, you know, a definite plan, I guess, always helps so that you know ultimately the property is going to be resolved.

But the liability aspect, I would ask you to at least speak to •• I don't know that based on what a lot of the Supreme Court case law is, that the fact that we merely go ahead and convey out allows us to go ahead and get out of the liability chain. A lot of the case law, as you know, goes back to the fact that even parties with security interests who may never have been in title still might have some liability associated with it. So if there's a way to craft in this that in conveying then we can insulate ourselves from any future liability, I'd ask for that. If not, then let's be cognizant of it and the fact that we're putting it over to a priority party, yet nevertheless, maybe still retaining some residuary liability.

**CHAIRMAN D'AMARO:**

Okay. Just to pick up on those comments, Legislator Kennedy, I would assume that when the County conveys these properties out, part of the terms of conveyance would be some type of indemnification back to the County. Is that something being contemplated in the conveyance?

**MS. BIZZARRO:**

I don't know the actual answer to whether or not all liability is removed once we sell the tax liens. So I would have to look into that further, and that's why I jotted down that notation. But absolutely, we would look at all aspects of indemnification and getting •• basically extracting all liability against the County.

**CHAIRMAN D'AMARO:**

Okay. Legislator Mystal.

**LEG. MYSTAL:**

Good morning, Lynne.

**MS. BIZZARRO:**

Good morning.

**LEG. MYSTAL:**

While you're going your research •• I don't know why, but I seem to remember in the back of my head that we had a previous case like this in the County where we conveyed a piece of property, and I think it was maybe in the early '90s, we conveyed a piece of property, and it came back to us saying that even though we did do that, we sold it, but the cleanup, we were still liable for the cleanup, because it was ours. It was, you know, bought us knowing that it needed cleanup. I think that was the precedent for the case, we knew it needed cleanup, but we sold it anyway, so, therefore, we're still

liable for the cleanup. I think it was somewhere in the '90s, I don't remember exactly.

**MS. BIZZARRO:**

I'll certainly check on that.

**LEG. ROMAINE:**

The lace mill in Patchogue was one of them. They never recorded the deed.

**LEG. MONTANO:**

Didn't we pass a bill recently where now we will record the deed on behalf of the purchasers?

**LEG. ROMAINE:**

Yes.

**LEG. MONTANO:**

I remember that. I was asking •• I recall a debate recently where, I think we passed a bill requiring the County Clerk to record those deeds on the tax sale, because buyers were not recording them.

**LEG. ROMAINE:**

That's right. And the ownership would be shown as the County and liens and others things would be brought against the County because they were the owner of record.

**CHAIRMAN D'AMARO:**

Okay. There is a motion pending before the committee to table the resolution. I'll call the vote. All in favor? Opposed? Abstentions? Motion carried. **TABLED (VOTE: 6•0•0•0).**

**2042, Authorizing certain technical corrections to Adopted Resolution No. 692•2006.**

**LEG. ROMAINE:**

Motion to approve.

**CHAIRMAN D'AMARO:**

Motion by Legislator Romaine to approve.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Vice•Chair Mystal. All in favor? And on the Consent Calender. All those in favor? Opposed? **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**M•060, Memorializing resolution in support of the inclusion of a secure, transparent and economical voting system for New York State.**

**LEG. MYSTAL:**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion by Legislator Mystal to table, seconded by Legislator Montano. All in favor? Opposed? Abstentions? **TABLED (VOTE: 6•0•0•0).**

Next on the agenda are Introductory Resolutions.

**2106, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Steven B. Vensky and Mary Vensky (SCTM No. 0100•042.00•01.00•048.000).**

**LEG. MYSTAL:**

As•of•right?

**MS. ZIELENSKI:**

This entire list that runs through 2112 is as•of•right redemption.

**LEG. MYSTAL:**

Motion to approve and place on the Consent Calender.

**CHAIRMAN D'AMARO:**

Motion to approve and place on the Consent Calender by Vice•Chairman Legislator Mystal, seconded Legislator Montano. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0)**.

**2107, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Paul V. Samuels and Neana L. Samuels as Executor's of the Estate of Moses Samuels (SCTM No. 0200•543.00•02.00•034.000).**

**CHAIRMAN D'AMARO:**

Same motion, same second, same vote. **APPROVED** and placed on the

**CONSENT CALENDER (VOTE: 6•0•0•0).**

**2108, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Beebe N. Birtles a/k/a Bebe N. Birtles (SCTM No. 0400•143.00•03.00•088.000).**

**CHAIRMAN D'AMARO:**

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**2109, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Sergio A. Acejabon (SCTM No. 0400•159.00•03.00•069.002).**

**CHAIRMAN D'AMARO:**

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**2110, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Gene J. Crispino and Laurel Crispino, his wife (SCTM No. 0500•020.00•05.00•034.000).**

**CHAIRMAN D'AMARO:**

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**2111, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Eric Sandler and Joann H. Sandler (SCTM No. 0500•470.01•01.00•086.000).**

**CHAIRMAN D'AMARO:**

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**2112, Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Grace Henderson Rich as surviving tenant by the entirety (SCTM No. 0801•007.00•03.00•005.000).**

**CHAIRMAN D'AMARO:**

Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**2116, Authorizing certain technical corrections to 2006 Adopted Operating Budget for a contract agency in the Department of Social**

**Services.**

**LEG. MYSTAL:**

I'll make a motion.

**CHAIRMAN D'AMARO:**

This is ••

**LEG. MONTANO:**

This is a correction of a name.

**CHAIRMAN D'AMARO:**

From St. Patrick's Hospitality Center to St. Patrick's Family Outreach to reflect the proper legal name as per the Budget Review Office. I'll offer a motion to approve and place on the Consent Calender, seconded by Legislator Montano. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0)**.

**2120, Authorizing certain Technical Correction to Adopted Resolution No. 980•2006.**

**CHAIRMAN D'AMARO:**

I've been advised this does not have a fiscal impact statement, so the committee is not going to be able to address that this morning •• or vote on that rather this morning. Mr. Zwirn, do you want to double check that.

**MR. ZWIRN:**

I'll double check, because I'd be surprised that we would bring one over without a fiscal impact statement. Pass on it, I'll find out.

**CHAIRMAN D'AMARO:**

We'll skip over that and come back.

**2121, Approving payment to General Code Publishers for Administrative Code Pages.**

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve, seconded by Vice•Chair Mystal. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0)**.

**2122, Authorizing the reconveyance of County•Owned Real Estate pursuant to Section 215, New York State County Law to Flora Vogel.**

**LEG. MYSTAL:**

On the motion.

**LEG. ROMAINE:**

Motion to approve.

**LEG. MYSTAL:**

I'll second it, but on the motion.

**CHAIRMAN D'AMARO:**

On the motion.

**LEG. MYSTAL:**

Explanation on that, please.

**MR. NOLAN:**

This is a 215 Resolution. The time to redeem the properties of right have passed. And it's based on the health •• poor health of the owner of the property. She qualifies under 215. Legislator Romaine has recommended it.

**CHAIRMAN D'AMARO:**

All right. There's a motion pending to approve that has been duly seconded. I'll call the vote. All in favor? Opposed? Abstentions? Motion carried. Resolution is **approved (VOTE:6•0•0•0)**.

I want to go back up to 2121. I understand that can be placed on the Consent Calender. So just very quickly, I'll offer a motion to reconsider 2121, second by Vice•Chair Mystal. All in favor? Opposed? Abstentions? That motion carries. **2121** is now before the Ways and Means Committee. I'll accept a motion to approve from Vice•Chair Mystal to approve and place on the **Consent Calender**, I'll second it. All in favor? Opposed? Abstentions? That motion carries.

**2130, Authorizing the conveyance of County•Owned Real Property that are public highways known and designated as Courthouse Drive from Carleton Avenue to Belt Drive East, Town of Islip, and Belt Drive East from the vicinity of the Cohalan Court Complex to Lowell Avenue, Town of Islip, for public highway purposes pursuant to Section 72•h of the General Municipal Law.**

**LEG. MONTANO:**

I'm going to make a motion to approve.

**LEG. MYSTAL:**

Second.

**LEG. MONTANO:**

Counsel, could you just give a brief explanation of this while I look at it?

**MR. NOLAN:**

This is a County Exec Resolution transferring public highways designated as Courthouse Drive from Carleton Avenue to Bell Drive East and Bell Drive East from the vicinity of the Cohalan Court Complex to Lowell Avenue the Town of Islip for a dollar. According to the resolution, the town has been maintaining the highways, but the property has never been conveyed to the town, and that's why the rationale for this resolution.

**LEG. MONTANO:**

List me as a cosponsor, please.

**CHAIRMAN D'AMARO:**

Okay. Listing Legislator Montano as a cosponsor. Is there motion?

**LEG. MONTANO:**

Yes. There's a motion and a second.

**CHAIRMAN D'AMARO:**

Okay. Then I'll call the vote. All in favor? Opposed? Any Abstentions?  
Motion does carry and the resolution is **approved**

**(VOTE: 6•0•0•0).**

**2157, Authorizing certain technical correction to Adopted Resolution  
No. 684•2006.**

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve and place on the Consent Calender, is there a  
second? Seconded by Legislator Mystal. All in favor?

**LEG. KENNEDY:**

Mr. Chair, just on the motion. A quick question. I guess I would just ask  
from the sponsor, is it •• it says \$773,600 technical correction, can you tell  
us anything about what, in fact, it does specifically?

**MR. ZWIRN:**

Let me just get the bill out and take a look.

**CHAIRMAN D'AMARO:**

I have a note here from the Budget Review Office that says that it corrects

the Capital Project Number from 8705 to 7177 to be consistent with the name of the land program. Capital Project Number 8705 is for Open Space SOS, whereas, the resolution originally indicated that Suffolk County Multifaceted Land Preservation Program would be the source of funding, which is 7177.

**LEG. KENNEDY:**

So this then ••

**CHAIRMAN D'AMARO:**

It's changing the number to •• to match up with the program where the funds are coming from.

**LEG. KENNEDY:**

Which is fine, but then I would •• in other words, I would ask, this is moving or correcting the name for the purposes of a particular purchase, or is this just moving •• is it recategorizing this amount of money from the one program to the other? Housingkeeping, or is it tied to a particular purchase?

**LEG. MYSTAL:**

If I may, Mr. Chair? If I may, Mr. Chair?

**CHAIRMAN D'AMARO:**

Yes.

**LEG. MYSTAL:**

I think what it's doing is reclassifying the source of the funding from one budget line to another, because I think in the resolution, the resolution misplaced the source of funding.

**MR. NOLAN:**

Right. It's changing the Capital Project Number. It was always multifaceted, but the Capital Project Number was wrong. It should be •• it's basically just changing the Capital Project Number, it is truly a correction.

**LEG. ROMAINE:**

It's not tied to a specific purpose or purchase?

**MR. NOLAN:**

That I do not know. I'd have to get the old resolution. If you want me to I'll do that right now.

**LEG. KENNEDY:**

I don't want to delay the committee, but, I guess, I'm just curious at to this amount moving. If it's housekeeping, it's housekeeping. If it's a particular acquisition, I'm just curious to know.

**CHAIRMAN D'AMARO:**

My understanding is that when the resolution was passed, it was intended that the funding come from the Multifaceted Land Preservation Program. That is not changing. The only thing that's changing is that when the resolution was passed, although it said multifaceted, it had the wrong project number. It had 8705 instead of 7177.

**LEG. ROMAINE:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Yes.

**LEG. ROMAINE:**

I'd like to make a motion to report this out without recommendation, and that will serve as a reminder at the General Meeting for us to ask the Executive and Counsel to have the appropriate information, and therefore, we will not delay our committee meeting today. Hopefully that will be provided should that matter arise at the General Meeting. Thank you.

**CHAIRMAN D'AMARO:**

What specific information do you feel we're lacking?

**LEG. ROMAINE:**

I'd like to know if it was tied to a particular purchase.

**MR. NOLAN:**

It is. It's the {Manos} property in Southhold.

**MR. ZWIRN:**

So it's in your district, Legislator Romaine. Should we table it?

**LEG. ROMAINE:**

I did not ask to table it, I asked to have it voted out without recommendation.

**MR. ZWIRN:**

I was just asking.

**LEG. ROMAINE:**

You ask a lot of questions that don't seem to have purpose.

**CHAIRMAN D'AMARO:**

My understanding, though, is that this resolution •• the source of funding is not changing, though. It's an adopted resolution already. We knew the source of funding when we adopted the resolution, and that is not changing. So I don't really see the need to discharge without recommendation.

**LEG. KENNEDY:**

Again, Counsel's provided an answer, I guess, to the question that I had, the base level question, which was is it tied to a particular acquisition. Asked and answered, I have no problem. I'll happy to support it.

**CHAIRMAN D'AMARO:**

There is a motion pending to approve, I will call the vote. All those in favor? Opposed? Abstentions? And the motion is **approved**

**(VOTE: 6•0•0•0).**

**CHAIRMAN D'AMARO:**

All right. We would like to go back to 2120 at this time. We do have the fiscal impact statement, which was just passed out to committee members indicating that there is •• its not going to have a fiscal impact. So I'll call that resolution back.

**2120, Authorizing certain Technical Correction to Adopted Resolution**

**No. 980•2006.**

And I'll offer a motion to approve and place on the Consent Calender. Is there a second? Seconded by Legislator Montano. Any discussion? I'll call the vote. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **CONSENT CALENDER (VOTE: 6•0•0•0).**

**2166, Authorizing waiver of interest and penalties for property tax for Robert Contento (SCTM No. 0200•543.10•01.00•008.000).**

**CHAIRMAN D'AMARO:**

Mr. Nolan, would you like to weigh in.

**MR. NOLAN:**

The assessor from the Town of Brookhaven has certified that they sent the tax bill to the wrong address. This is waiving \$813 in penalties and interest for late pavement.

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Montano. All in favor? Opposed? Abstentions?  
Motion carries. **APPROVED (VOTE: 6•0•0•0).**

**2182, Amending the 2006 Capital Budget and Program and appropriating funds in connection with the replacement of Kodak scanners (CP 1707.510)**

**LEG. KENNEDY:**

I'll make a motion.

**CHAIRMAN D'AMARO:**

Motion by Legislator Kennedy to approve, seconded by Vice•Chairman Mystal. Any discussion. All in favor •• I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED**

**(VOTE: 6•0•0•0).**

**2183, Amending the 2006 Capital Budget and Program and appropriating funds in connection with the replacement of Kodak**

**archive writers (CP 1689.510).**

**LEG. KENNEDY:**

Again, I'll make a motion.

**CHAIRMAN D'AMARO:**

Legislator Kennedy, motion to approve, seconded by Legislator Romaine. All in favor? Opposed? Abstentions? Motion carries. Resolution is **approved (VOTE: 6•0•0•0)**.

**2188, Authorizing conveyance of parcel bearing Suffolk County Tax Map Number 1000•015.00•05.00•025.003 to the Town of Southold pursuant to Section 72•h of the General Municipal Law.**

**CHAIRMAN D'AMARO:**

We will ask our Counsel, Mr. Nolan, for a brief explanation.

**MR. NOLAN:**

This is a County Executive resolution to authorize a transfer of the properties known as Park View Lane and Ryder Farm Lane in the Town of Southold to the Town of Southold. There is another resolution related to this road, which the members of the Legislature are aware of. These are properties where two roads that the County took for taxes approximately 15 years ago. I believe Legislator Romaine has introduced a resolution to provide funding to

repair the roads. And I believe in my conversations with Legislator Romaine, he has indicated the town not willing to accept the roads until the worked is performed. That's the background.

**CHAIRMAN D'AMARO:**

Let's get a motion pending first. I'll offer a motion to approve the resolution, is there a second?

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Mystal. Legislator Romaine.

**LEG. ROMAINE:**

Yes. Using the 72•H, it takes two to tango, the Town of Southold has absolutely zero interest in taking the roads in their current condition. They have no problem taking the roads and getting them back in the condition the County took them in. They're not going to take the roads in their current condition. They have no problem. This is the only improved road, by the way, that we own in the County of Suffolk. We own paper roads, we own dirt roads, but we don't own improved roads that were up to code at the time to took it that we've allowed to deteriorate.

The town is prepared to take this back into their system once it's repaired. And I will circulate a letter to all of my colleagues that the Town Board has committed and the Supervisor has signed a letter that the town will pay up to 25% of the cost of restoring the roads. We have that letter that we can provide to every member of the Legislature. But the town is not prepared to take the roads in the current condition. They will contribute to the repair of these roads, but they will take them until they are repaired. And they are prepared to contribute up to 25% of the cost of repairing these roads.

I can't believe a 72•H is taken, because as any attorney can tell you, if the receiving party doesn't want to take the property, you cannot force them or compel them to take the property. So this resolution is not only premature, it's provocative. Thank you.

**LEG. MYSTAL:**

Thank you, Mr. Chairman. That was my question. Don't we have •• in this County, Ms. Zielenski maybe you can •• you know, and Counsel •• don't we have to have a prior town board resolution accepting the piece of property before we can pass a resolution giving them that property. Because you guys always tell me you have to do that. Is that the way it works?

**MR. ZWIRN:**

Usually, I think, that is the case. In this case, we wanted to make sure that the issue that the Town the Southold didn't have was, say, that we won't repair these roads that are in our •• that are town roads, because we don't have title to the property. So we were going to take that issue off the table and say, here, you have title to the property now, now what's •• what reason would you have not do the roads now?

And let me just add one thing. I think if Mr. Romaine reads that letter again from the Town Supervisor, he does not indicate that he will pay 25%. He said \$25,000. And I assume that's why Legislator Romaine amended his last bill that deals with that to increase the amount of money that the •• that the County would contribute from 144,000 now to 150, because the town's estimate that's ten years old said it would cost \$175,000 to put the roads in proper repair. The Town of Southold now is going out to bid to see what it would actually cost in today's dollars to repair these roads.

I might add, I took a ride out there last weekend, last Friday. And the Town of Southold has exercised jurisdiction over these roads. They have three stop signs up on these roads that they say they have no jurisdiction over that they do not own and that they do not have any responsibility for. Well, anybody who's been with town government knows that you can't put up a stop sign on property that the town doesn't own. It's a waste of taxpayers' money, and you can't •• you know, the County can't put up stop signs on state code roads, and the town can't put up stop signs on roads that they don't own. And these are town stop signs that were put after duly held public hearings.

So the people out there have a real problem. We believe that the problem started with the Town of Southold, and I think that they will even admit that that's the case. And the town, you know, got a resolution from a friendly Legislator who said, look, the County will put up almost all the money. Out of \$175,000 of their estimates cost, the County will spend \$150,000 of that. And the town said they'd put 25,000. I don't think it's 25%, I think it's 25,000. I assume that's why you changed your bill.

The County Exec is saying, look, we don't want to start a precedent here. He

understands there's a problem, and he'd like to see if we could work something out with the Town of Southold, and we're talking to the Supervisor in the town and the people in the community. But he thinks this is just a bad precedent, because there are other properties that the County takes by tax deed that, you know, Legislators are going to put in bills that say we should clean this up and we should pave this. You know, where does it end? No matter how well intentioned it is.

**CHAIRMAN D'AMARO:**

I think there's a little bit more to the history, however, because ••

**LEG. MYSTAL:**

I'm not finished. I'm sorry. Thank you very much for all the background, but the fact remains my original question was never given an answer to. Are we legally permitted to transfer a piece of property from the County to another municipality without having the prior approval of that municipality for accepting that piece of property?

All the other stuff you're telling me, I agree with you 100%, the background, the history, but my thing is, like, I've always been told, I've always been told, that we cannot transfer a piece of property, because that's what happened when we tried to have land acquisition. And Ms. Zielenski would say, well, we can't do it unless we get something from the board. If we don't have anything from the board, we can't do it. Why am I doing this now? Is there a change that somewhere I was asleep I didn't get it?

**MR. NOLAN:**

On that point.

**LEG. MYSTAL:**

Go ahead.

**MR. NOLAN:**

I don't think the General Municipal Law requires technically that we have a resolution from the town in order to pass our resolution, but we can't make take them the property. We can pass the resolution, but if they don't want it, I don't believe we make them take it. So that's why we normally get a resolution from the municipality saying they are going to accept the property.

**LEG. MYSTAL:**

We can pass it, but we can't enforce it.

**LEG. KENNEDY:**

Mr. Chair, I would just add, Legislator Montano and I recently had the experience associated with the transfer of property for the Central Islip •Hauppauge Volunteer Ambulance Corps. And the presence of the 72•H Resolution by the Islip Town Board was critical to the discussion and the representation and ultimately has not •• the transfer was not effectuated until the 72•H actually was done. There was a manifestation on the part of the town to go ahead and actually have acceptance. I don't know that, as to Legislator Mystal's question, this is even something so specific to us as a municipality. Counsel tell will us it's an essential element of real estate

jurisprudence that, you know, there's transfer and acceptance. Without both, there's no transfer.

**LEG. ROMAINE:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

But if we have •• just one second. First of all, I think we have to also look a little deeper into the history here. There was a point in time where this road was to be dedicated to the town, and because the town had also released the bond, the •• it was improperly done at that time, and that's how the County ultimately acquired it through a tax default. It's not like the County went out affirmatively and said, hey, we want to take this property.

All right. The town has culpability here for not taking the property in the normal process. When a developer came in and developed this area, they were supposed to dedicate the roads, and that's between the developer and the town. And now, years later, we're putting •• on the backs of the County taxpayer, we're putting the bill for maintaining the road. So I think that's one point we have to think about.

The other thing is I don't see the harm in this resolution, because it says to the town you have the option. We in the County, we are expressing our, I guess, position that we would, of course, you know, convey this property over to you through this 72•H procedure, and you now as a town have an option to come in and correct the mistake that you made in the past and to help these residents. So I don't see the harm in passing the bill. Who wants

to go? Who's next? Legislator Romaine.

**LEG. ROMAINE:**

I just want to make a couple of corrections. One, as you all know, the letter is before you. Mr. Zwirn is incorrect. The town has agreed to fund up to 25% of the cost ••

**MR. ZWIRN:**

I stand corrected.

**LEG. ROMAINE:**

•• of the road. Secondly, my aide will be getting the estimate from the town engineer that was prepared in June of this year that showed the total cost at 176,000. I put in up to 150,000 expecting the town to put up another 50,000. That would cover any contingencies of that estimate. The \$400,000 estimate that Mr. Zwirn gave was an estimate based on totally reconstructing these roads. They don't have to be totally reconstructed. There's enough of a base down that they can be rebuilt for under \$200,000.

Thirdly, if the town erred, certainly there are other precedences. I'm dealing with a Health Department matter where a guy bought a piece of property where there was not a permit on it, and now 16 years later, the Health Department is beating him over his head, too bad, that was your problem. Well, it's too bad that the County takes this. And one of the things that I would hope this committee could do is that we could collectively come together and pass a resolution that would prevent this County for taking for

back taxes any roads, paper roads, dirt roads, parks, playground, sumps and the like, because we have a whole host of that.

Mr. Zwirn finally said that this would set a bad precedent. This is the only improved road in the County that the County owns. All the rest are paper roads or dirt roads. All the people there want is their road back in the same condition. The town is willing to find •• fund up to 25% because they recognize maybe they should have taken this back in 1980, 26 years ago, and they didn't and the bond was released, and the County eventually picked up the roads in 1990, 16 years ago. So they're willing to finance •• for a small town, this is a town of about 20,000 people, by the way. It's much smaller than the Village of Lindenhurst, for example. They're willing to finance up to 25%, the County would fund the other 75%. It would be off our plate, and the town would take it into their system.

Right now we have liability. The County Attorney's Office, the County Executive and several other offices, DPW, my office have all been put on notice by an attorney by the name of Franks. A child was injured there when he tripped in one of the potholes, a dog was injured. We're only waiting for an accident to happen. If someone ruins their car axle in these potholes, we will be sued for that and any accident that might cause. We do not •• they are •• the Post Office has indicated they will not deliver and the school district is considering suspending service to these areas.

This is a liability situation. It doesn't matter how we came to it. The bottom line is on the deed, Suffolk County owns it and has a responsibility for it. This is one way to end that responsibility, serve the residents right, get it off our plate, put it back in the town, and the town is prepared to share in that cost. I just will point out the town engineer's estimate is not of ten years ago, but of June 19th, 2006.

I think we should all deal with the accurate information concerning estimates, concerning what the town's share would be and concerning what the problem is. The town has made it clear to me repeatedly they will not accept any of this property and view this as provocative act by the County by trying to put this back on their plate. Let's solve the problem. Let's not with polemics. Thank you.

**MS. BIZZARRO:**

Excuse me, Chairman. If I can just comment on the liability issue. There is no liability to the County with respect to this property. Under section •• and I apologize, I don't have the file, but it's under Section 53 of the County Law, although we have taken title, we have taken the deed to the property, because we have not taken any possessory interest and we have exerted no rights with respect to that property, we have no liability. So there's nothing regarding prior notice. It doesn't matter •• it does not matter whether it's written or verbal. I just want the committee to understand that. As we sit here today, the County does not have liability with respect to any actions or any accidents that occur on those roadways.

**CHAIRMAN D'AMARO:**

Thank you, Ms. Bizzarro. Legislator Montano is next on the list.

**LEG. MONTANO:**

Actually, I'm not going to address the issue of liability, because I don't know the section of the law that you're applying. I have done extensive work with the Attorney General's Office and private practice on personal injury, so it's

something that, I think, you know, we could talk about at a later point. But, you know, I don't have a problem with transferring this property. I understand the history, Ben, but in all the transactions that I've been involved in as an attorney and, you know, all the real estate transfers, there's always been a conveyance between two willing parties.

A little while ago, we just passed a resolution conveying to the Town of Islip certain lands, certain property in my district, I cosponsored it, but I assume there's a resolution or some type of indication from the town that they wanted this property and that they're willing to accept it in terms of the 2130 Resolution. And my understanding, as Legislator Mystal's, is that we always need either a town board resolution or some very clear indication that the entity, the municipality that we're transferring to is willing to accept.

The problem I have with this resolution, and while I'd like to give it to the town, and while I agree with you that the town should take it, you know, the reality is I'm hearing that the town doesn't want it. This resolution offers •• rather authorized us to quit claim this deed to the town for \$10. I don't see the town coming up with a \$10 bill to take over possession of this property. What are we doing in terms of offering something, even if it were 50 cents? I think they've indicated they just don't want it. So what are we doing, Ben? That's what I'm asking you.

**MR. ZWIRN:**

What we're doing is is that we're taking this as an issue off the table. We don't want to the town to say •• be able to say that we're not going to take responsibility, because we don't have title to the road. We're saying, look, we're making the property available to you by resolution. You don't want to take title to it, then you are going to •• you're going to have to make another argument. They've already exercised jurisdiction and control over this road

in acts they have taken. The County has taken no act, it's done nothing to show any possessory interest in this property other than taking the tax deeds. We have •• we've never down anything to the roads.

**LEG. MONTANO:**

So we're essentially making an offer?

**MR. ZWIRN:**

Correct.

**LEG. MONTANO:**

That's all you're saying. But is this the way to make the offer, is what I'm asking you?

**MR. ZWIRN:**

We're saying that this is an official act that you cannot any longer say that we do not have access •• title to the property. The County has offered you full title to the property. If they're not going to accept it, because they're not going to •• because it's not in the condition that they would like it, then that's a decision that they're going to make. But they can't say that the County hasn't tried to give them title to the property.

**LEG. MONTANO:**

No. I understand that, Ben.

**MR. ZWIRN:**

We've been paying taxes on the property, you know, every since we took the tax deeds.

**LEG. MONTANO:**

What I'm suggesting is that, and I understand the purpose, and I fully agree with you, I'm looking at the mechanism by which we are doing this. You know, as I said, I've never been involved in a transaction where you don't have two willing participants, and that's the problem I have. I don't see how we could pass a resolution •• why we should pass resolution conveying something that on the other end there's no willingness to accept.

And legally, I even doubt that we can •• you know, I have concerns about whether or not we can even properly •• I know we can pass anything we want, we've done it in the past •• but whether we can properly convey something by resolution to an entity that just doesn't •• isn't willing to accept it. And I'm back to the point that Legislator Mystal said where we need, before we pass a 72•H, and I haven't looked at the statute, but we need some kind of indication from the municipality that they're, in fact, going to accept the property and use it for the purposes that we outlined in the conveying resolution.

**MR. ZWIRN:**

Look, I'm hopeful that this whole thing will be resolved in an amicable

manner. I'm hopeful, because there are talks going on. But, you know, in absolute fact, the County can pretty much do •• they could •• I assume the County could close these roads if the people were afraid

of ••

**LEG. MONTANO:**

If it's your road, you can do what you want with it.

**MR. ZWIRN:**

You know, the property •• as far as the County is concerned, it's property. It's the tax deeds to this property. I'm not suggesting that the County has any intention of doing anything with this property, but the fact is that we can sell it, we can do pretty much anything we want with it.

**LEG. MONTANO:**

But you have to sell it to somebody that's willing to buy it.

**MS. ZIELENSKI:**

There are people willing to buy it.

**LEG. MONTANO:**

Well, okay. But the town is not willing to buy it. So if we passed a

resolution, as I said for \$10, they're not going to come in with \$10 and take title to the property. So, you know, I think we're really spinning our wheels unless you solve the problem, you know, in another fashion, which is what I'm suggesting. I'm not even going to deal with the liability issue, because that's a separate issue.

**MR. ZWIRN:**

We're putting it on the table so that this is no longer an issue that becomes part of the debate.

**CHAIRMAN D'AMARO:**

Well, I know we're spending maybe a little too much time here, but I certainly tend to agree that we as a body can say to the town residents that are affected by this that the county is ready, willing and able to convey this property to the town who should have taken the property originally, and who, by the way, Legislator Romaine, should have spent \$174,000 over the last 20 years to maintain it.

So again, I don't see the harm in passing a resolution that simply takes the issue off the table where people say, well, we don't have •• or the town might say we don't have title to the property. Well, we're willing to give the town title to the property. It's probably something that we're not doing too often where we pass a resolution without a resolution from the town first. But I don't think that's a legal requirement. And I think it bolsters the argument against liability because it shows that the town has no •• the County has not only has no liability, but also wants to convey the property back to the town where the liability really should lie in the first place. Anyone else? Legislator Kennedy.

**LEG. KENNEDY:**

Again, Mr. Chair, I guess, we've discussed many, many aspects here. And some of it seems to be in just the position even with what County Attorney's Office has suggested to us. You've just said based on a section you quoted that there's no liability in stake because we've never taken dominion and control. We don't even want to go to whether or not we've got capacity to convey something that may or may not be true title that devolved to us to begin with.

**MS. BIZZARRO:**

We have title. I didn't say we didn't say we didn't have title, but we have not exercised the control required in order for there to be any liability on the part of the County.

**LEG. MONTANO:**

Counsel, let me interrupt. I just want to be clear on this. You say that we don't have liability because we don't exercise dominion and control?

**MS. BIZZARRO:**

The control, right.

**LEG. MONTANO:**

Well, here's my problem. If we are selling the property and we're offering it for sale, haven't we exercised dominion and control by the mere fact that we

are selling it in the case that we control it?

**MS. BIZZARRO:**

We own it. There's no question that we own it.

**LEG. MONTANO:**

No. You said dominion and control. If we own it and we are selling it ••

**LEG. ROMAINE:**

And we're paying taxes on it.

**LEG. MONTANO:**

•• and we're paying taxes on it and we're offering it to the town, haven't we just exercised dominion and control over the property by the mere fact that we offered it to another party?

**MS. BIZZARRO:**

That is not physical control. We haven't gone, we haven't repaired the road, we've taken no absolute •• we've taken no action where liability would be tied to it.

**LEG. MONTANO:**

You have. You just offered to sell it. That's why I said I didn't want to go into this issue, but, you're saying on the one hand we don't have dominion and control, and therefore, we're not liable. And on the other hand you're saying, but we're going to sell it to you.

**MS. BIZZARRO:**

We own. We can absolutely •• as absolute title to that property. That is not the issue. I'm talking about liability that would attach if we have some type of, as Legislator Romaine stated, some type of prior notice where gets someone gets hurt on the property, we have not exercised that type of control over the property under the County Law, which is required.

**LEG. MONTANO:**

Once you take the action, if your •• if your title was passive and somebody fell, you probably could argue that you're not liable, but you just exercised, in my opinion, dominion and control of the property. You didn't physically go over there and pick it up because you can't, but by the mere fact that you're offering the deed, you've now exercised control of that property because you are saying, we can sell it. I can't sell it, because I have no control other it, but you do. And that's the problem I have with the liability or the issue of nonliability. This road in my opinion is our road whether we like it or not, we control it, because we're exercising activities with respect to ownership. You know, we're going in circles here.

**MS. BIZZARRO:**

It's not a question about ownership. That's not the issue. It's the absolute

taking •• the control, that would going, repairing the road, having, say ••

**MR. ZWIRN:**

Putting a stop sign on it.

**MS. BIZZARRO:**

•• a home on it.

**LEG. MONTANO:**

How about selling the road, would that be control?

**MS. BIZZARRO:**

We can absolutely sell. We own it.

**LEG. MONTANO:**

No. I know you can sell it.

**MS. BIZZARRO:**

That's not the control.

**LEG. MONTANO:**

My question is selling the road is not taking control of it?

**MS. BIZZARRO:**

Not the control required under County Law, which would put the liability on us in the event of some type of an accident.

**LEG. MONTANO:**

I respectfully would have to disagree with it.

**MR. ZWIRN:**

Legislator Montano, how do you ••

**LEG. ROMAINE:**

Mr. Chairman. Mr. Chairman.

**LEG. MONTANO:**

I give the floor back to Legislator Kennedy. Thank you.

**CHAIRMAN D'AMARO:**

I think it might be helpful if we just defer to our Counsel for a moment who has pulled up the operative section, and it might just be helpful for all of us to hear what that says. I'd ask Mr. Nolan if he'd like to express any opinion.

**MR. NOLAN:**

The section the County Attorney has cited is 53 of the County Law, 53 Subsection 2 says notwithstanding the provisions of any law defining real property owned by •• real property owned by tax, title or offered for purposes of assistance granted is help out in use for public purpose. No County shall be liable by reason of such property being defective, out of repair, unsafe or dangerous unless the County is in the actual physical possession and control in operation thereof as owner.

So the section seems to •• in the situation where the County has taken property by tax deed, there is some language in the County Law indicating we would not be liable. But I think it is a question of fact whether or not the County is exercising the actual physical possession, control and operation thereof as owner. There are no •• I see no cases under this section of the law ••

**MS. BIZZARRO:**

We have done the research on it and just in connection with some cases that we do have the Torts Bureau. And we have confirmed •• I cannot cite you those cases unfortunately, but that there is no liability attached unless you

take that actual physical possession and control.

**LEG. KENNEDY:**

Mr. Chair, can I just finish up?

**CHAIRMAN D'AMARO:**

Yes. Legislator Kennedy, then Legislator Romaine.

**LEG. KENNEDY:**

I'm going to offer a suggestion, Mr. Chair, that I think may go ahead and help us here. Since it seems to be that there's dialog that's continuing on between the town and the County Executive's Office, I don't know that an issue of title and a willingness on the part of the County to convey or not convey is critical to whatever the resolution is going to be here even in reviewing the estimate.

I would certainly go ahead and ask as to the necessity of the emergent condition and the inclusion of about \$30,000 associated with a recharge basin. I don't know whose property the recharge basin is, who's in title, who's not in title. I think that there's essential elements here that ought to go on as far as continued dialog. I'd make a motion to table. I don't think it's prudent to take an act that's a unilateral act that will have no affect, that as long as town does not manifest a willingness to go ahead and accept. I said this on Tuesday with another act associated •• another action, a reso, associated with a walkway where we had, you know, little or no funding or something like that.

I find frustrating that we attempt to take these acts that are fruitless and meaningless. There's no question, I think, as far as ultimately parties needing to come together. But I think this is one that gets resolved by either more dialog between the County and the town and perhaps better information coming back to us. Else wise we can spin all day long look on liability or lack thereof. The Tax Act and its impacts with general statutes, next we can move to the dead man's statute if we really need to in order to go ahead and use up time.

**CHAIRMAN D'AMARO:**

Okay. Legislator Stern was next and then Legislator Romaine.

**LEG. STERN:**

Thank you, Mr. Chair. I had the same concerns raised by Legislator Montano. I think that was an entirely reasonable question to ask of Counsel. But I'm satisfied after a reading of Section 53 of the County Law and the research done by the County Attorney and our Counsel's comment. And so, Mr. Chair, I agree with your point that on the other side, I think that this act, although perhaps doesn't get us far enough in turning over title to the property because of the requirement of an acceptance, I think it does send an important message that this is not our property and that we don't intend it to be County property. And so I think we do send a message by supporting and passing this resolution.

**CHAIRMAN D'AMARO:**

Okay. Thank you. Legislator Romaine.

**LEG. ROMAINE:**

Yes. I'd like to ask the County Attorney's Office for a list of all properties that we have title to that we don't exercise dominion and control over. I'd like that list. I understand it would be an undertaking to get it, but I certainly would like it presented to us at the next committee meeting. I want to understand all the properties that this County owns that we don't exercise dominion and control over. So I would appreciate getting that list as soon as possible and certainly by the next committee, which I believe is two or three weeks away.

It should give you •• your office an opportunity to work with Real Estate to develop that list so we will have had a full understanding as the Ways and Means Committee of which properties we own, but don't exercise dominion and control over. Because if there are other time bombs sitting out there where we feel we may not exercise dominion and control and don't do anything, but become liable and then face lawsuits, and those lawsuits involve costs, I'd like to at least have a heads•up ahead of time. So if you could give me the full list, I'd appreciate it. Thank you. And I believe there's a motion to table that Mr. Kennedy made that I'll second. Thank you.

**MR. ZWIRN:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Mr. Zwirn.

**MR. ZWIRN:**

I just want to just say to Legislator Montano, one of the things that's clear out there is that the town had exercised control over these roads, they put up town stop signs after town public hearings on roads that, you know, they've claimed on one hand they have no jurisdiction over, they have no control over, they don't own them. I was a Town Supervisor, I didn't put up town stop signs. We had public hearings only on town roads. That's what our jurisdiction was. So the people in this community requested stop signs, they went to Town Hall, we haven't asked for the minutes, but the only municipality that has ever exercised any control or jurisdiction of these roads is the Town of Southhold.

**LEG. MONTANO:**

Ben, just let me be clear ••

**MR. ZWIRN:**

Now if somebody runs that stop sign now, would the County be responsible if somebody gets hurt, even though it's not •• the County had nothing to do with the stop sign going up?

**LEG. MONTANO:**

If I were in practice and this client that ran the stop sign and hit my client's vehicle, you would bet your dollar that I would be suing the County and not frivolously, all right. I've done •• you know, I've done plaintiff's work, defense work, I've represented the state on a lot of cases involving state

roads, and, you know, I've been consistent. I'm not disagreeing with you that this has to be resolved. I've been consistent on not voting for bills that I didn't think had a proper foundation or were a proper vehicle.

I agree with you that this needs to be resolved, I agree with you that you need to continue dialog. I would like to see this issue resolved, but I really have some concerns about, number one, I'm not satisfied with the explanation about the liability. Other than you're citing the statute, I don't know what research you have done. It hasn't come before me. Others may be satisfied with it, but I'm not. I know that we're engaging in an exercise in futility here because the town has indicated very clearly that they don't want the property. I would ask you to go back to the drawing board, work this out with them. I know that there are issues on both sides. I don't see why it can't be resolved. I don't know why we have to pass this now.

I'm not going to vote •• I've said this before, I'll say it again, I've been consistent, I'm not going to vote on something that I think has dubious legal precedent. It's not the kind of stuff I want to get involved in. You guys need to solve the road or all of you need to solve this issue on the road in a different fashion. To pass a resolution to sell property for \$10 or \$5 or \$100 from someone that doesn't want to buy it, I've never been in a transaction like that. You know, when we do closings, we do deed transfers, there's always, you know, a mutuality between the parties. There's an understanding. We don't have that here. You need to do something more. I agree with you, I'm not fighting you on this issue. You know, I'd like to cooperate, I just don't think this is the vehicle, and I don't like being put in that position.

**MR. ZWIRN:**

I understand. It would be helpful to have this resolution adopted as we try to

work out the other problems we have with the town and try to get this road •  
•

**LEG. MONTANO:**

Helpful in what way? Politically? I mean, you're going to issue a press release or something? What leverage are you looking for?

**MR. ZWIRN:**

It takes this issue out of the realm and it sends a message to the town that we're serious about trying to make the town do the right thing for the people in this community.

**LEG. MONTANO:**

I think they got the message. We've been talking about this for 45 minutes now. I think they understand that.

**CHAIRMAN D'AMARO:**

Okay. Well, I think that •• Legislator Montano, thank you for your comments as well. Just as a final word, I guess, I agree that this may not get us, as Legislator Stern said, to where we actually want to be, but I do not believe the town •• the County should be put in a position of having to pay for the repair of a road that by right the town should have taken a long time ago. It's within that town, they knew about it. The cost was going up and up and up. The town did absolutely nothing to remedy the situation. And I think now by passing this resolution it sends a clear message that the County is

willing to work with the town by giving them back what they should have taken 20 years ago. And I think that's an important message to send.

I agree with the County Attorney having looked at the issue myself as to liability. We have not exercised physical control over the roadway, therefore, we do not have liability on this road at this time. And also, the town itself has exercised that jurisdiction over the road with their stop signs and by virtue of the fact that town was the one that permitted the approvals in the first place for the whole entire area to be developed. I mean, this is basic stuff. This is a town responsibility to have taken this road. And now they want to push that course back down onto Suffolk County taxpayers. And I don't think that's a road we want to go down. I think it sets the wrong precedent. So with that said, there is a motion to •• Legislator Kennedy has made a motion to table. Is there a second?

**LEG. ROMAINE:**

I've seconded it.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Romaine. I will call that vote. All in favor of the tabling motion? Three. All opposed to the tabling motion? The motion does not carry. Four against, the Presiding Officer has voted no to table as well. All right. Now, I will offer a motion to approve the resolution. Is there a second? Seconded by Legislator Stern. All in favor? Four. Opposed? The motion carries 4•3. The resolution is adopted. **APPROVED (VOTE: 4•3•0 •0 • Opposed • Legis. Kennedy, Romaine and Montano • Presiding Officer Lindsay was present and voted on this resolution).**

**LEG. MYSTAL:**

This is what happens when you get ten lawyers in one room.

**CHAIRMAN D'AMARO:**

That completes the agenda for today. We do have Executive Session very briefly for the members of the committee. We stand adjourned •• not adjourned. We're recessed to Executive Session.

**(\* AN EXECUTIVE SESSION WAS HELD FROM 11:39 A.M. UNTIL 11:57 A.M.\* )**

**LEG. MYSTAL:**

Motion to adjourn.

**LEG. MONTANO:**

Second.

**(\* THE MEETING WAS ADJOURNED AT 11:57 A.M.\*)**

**{ } DENOTES BEING SPELLED PHONETICALLY**