

**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, January 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

Rich Baker • Deputy Clerk of the Legislature

Ben Zwirn • County Executive's Office

Pat Zielenski • Real Estate Division

Jacqueline Caputi • County Attorney

Ron Cohen • Aide to Chairman D'Amaro

Linda Bay • Minority Aide

Barbara LoMoriello • Aide to P.O. Lindsay

Terry Pearsall • Chief of Staff of the Legislature

Carl Yellon • Aide to Legislator Kennedy

All other interested parties

**MINUTES TAKEN BY:**

Donna Catalano • Court Stenographer

**( \* THE MEETING WAS CALLED TO ORDER AT 9:50 A.M. \* )**

**CHAIRMAN D'AMARO:**

I'll like to start. For the record there's a quorum. I'd like to call the first meeting of the Ways and Means Committee to order and ask everyone to please rise and join Legislator Elie Mystal in leading us in the Pledge of Allegiance.

**SALUTATION**

**CHAIRMAN D'AMARO:**

Okay. Thank you again and good morning. This is the first meeting of the reconstituted Ways and Means Committee. Since it is our first meeting of the year, I'd just like to take a moment to introduce the members of the committee; myself, Lou D'Amaro, I am the Chairman of the Ways and Means Committee; seated to my left is Legislator Elie Mystal who is our Vice•Chair; also joining us here on the committee are Legislators Rick Montano, Legislator John Kennedy, Legislator Ed Romaine and Legislator Steve Stern.

I'd also like to take a moment to briefly make a few quick statements. I'd like to thank our Presiding Officer, Legislator Bill Lindsay, for the faith that he has shown in me in appointing me to Chair this committee. And as a new Legislator, I'd also like to assure everyone on the committee that I look forward to working with each and everyone of you on a bipartisan basis as we continue with the County Executive's approach, which is to reform County government and make Suffolk County Government more efficient, of course, without sacrificing the •• without sacrificing the efficiency of what we do here in Suffolk as well as the integrity of our County workforce.

So I look forward to working on a bipartisan level with all of the Legislators here on this committee. And I think it was stated best in a local paper yesterday by our fellow colleague on the committee, Legislator Romaine, when he was quoted as saying, "I hope to work on a bipartisan level." Well, I'm sure we all agree. And with that said, I'd like to turn to our agenda. I'd also like to note that there is going to be an Executive Session after the regular agenda just for fellow Legislators. All right. First, I'd like to go to the second item on the agenda, which is the discussion. Do we have any cards?

**MR. COHEN:**

No.

**LEG. D'AMARO:**

All right. Is there anyone here who would like to address the committee who has not filled out a card? Okay. So there is no discussion portion for the meeting. That brings us next to the Introductory Resolutions. I'd like to start off by calling the first Introductory Resolution, which is Number **1000, authorizing certain technical corrections to adopted Resolution No. 1131 • 2005 (COUNTY EXEC).**

Is there a motion on that resolution?

**LEG. MYSTAL:**

I make a motion.

**CHAIRMAN D'AMARO:**

Motion by Legislator Mystal. Is there a second?

**LEG. MONTANO:**

Second.

**CHAIRMAN D'AMARO:**

Second. And that motion is to approve and to place on the Consent Calender; is that correct?

**LEG. MYSTAL:**

One question for BRO, if I may, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Yes.

**LEG. MYSTAL:**

What is this about, is it a typo or...

**MS. VIZZINI:**

It is definitely a technical correction. It's a minor change of a Capital Project point number.

**CHAIRMAN D'AMARO:**

Yes, Legislator Romaine, please.

**LEG. ROMAINE:**

I have the same question that Legislator Mystal raised about the first four, which are technical corrections, but they seem to move money from one account to another account. And I'd like to know •• they put the numbers in here and they don't explain what these various accounts are. And I obviously know that each of these account numbers stand for something. So perhaps you could explain what each of these projects are and where their funding sources are being derived from now.

**MS. VIZZINI:**

I agree that it is difficult to discern if you don't have the resolution that it's actually correcting. But the from and to down here, you can see the only change is we have a capital project number with a point number. The point number refers to whether it's •• planning would be in the one hundreds, land acquisitions is the two hundreds, construction is three hundreds, and then within those categories, each project is differentiated further. This is simply going from a .410 to .411.

Now, I'm not exactly clear why the parenthetic fund, General Fund debt service is on here other than to point that the debt services is paid for these capital projects from the General Fund. But this does not authorize the moving of any monies, it simply authorizes the change of the zero to a one.

**LEG. ROMAINE:**

Why would the error occur in the first place? The Budget Office did not correctly identify the project, the capital project by project number?

**MS. VIZZINI:**

I'd really have to defer to the Budget Office in terms of why the error occurred.

**LEG. ROMAINE:**

Is there a representative from the Budget Office here?

**MR. ZWIRN:**

Good morning, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Mr. Zwirn.

**MR. ZWIRN:**

Through the Chair, no, there isn't, because we didn't think one would be necessary today, but if in the future the Chair of the committee would like to have one, we will. I believe these •• I think these where typos. So, I mean, there's nothing nefarious about these. It happens on a budget of, you know, \$2.6 billion. You know, sometimes there's a typographical error in a budget that's, you know, like telephone book thick. And every once in a while, through the committees we will ask for technical corrections to be made, either in the Budget Committee or Ways and Means. But in the future if you'd like, we will have somebody from the Budget Office here to answer.

**LEG. ROMAINE:**

Let me get this straight. Your contention is that these are typos and that's why these errors are being ••

**MR. ZWIRN:**

I'm not saying •• it could be a typo. I mean, you're talking about a singly digit here. We're not moving money anywhere. But in the future we can •• usually in the past, in the last couple •• in the two years that I've been in the Legislature, this hasn't been an issue. But if it's going to become an issue now, then we'll have somebody here to answer those.

**LEG. ROMAINE:**

Just curious.

**MR. ZWIRN:**

I understand.

**LEG. ROMAINE:**

I mean, you don't have to have anyone here, just bring someone •• a letter from the Budget Office when they •• when they submit these indicating that a typo or we put this account down, but we prefer to take it out of that account, something of that nature so we would have some comfort level in voting on these that the technical correction is exactly that, a technical correction, which doesn't have a huge impact. That's all. I mean, you don't need anyone here, you just need a letter or something to that affect.

**MR. ZWIRN:**

Okay.

**CHAIRMAN D'AMARO:**

Legislator Montano.

**LEG. MONTANO:**

Thank you, Mr. Chair. Ben, could you get us a letter by the next meeting and we can maybe vote this out of committee now?

**MR. ZWIRN:**

Sure. I'll bring it to the General Meeting. I'll bring it to the General Meeting. If it passes out of committee and goes before the entire Legislature, I'll step up and explain it either before hand or on the record, whichever you prefer.

**CHAIRMAN D'AMARO:**

All right. So to make it clear then, if you look at the resolution itself it just states that the last three digits were going from .410 to .411, and Legislator Romaine has requested written correspondence to the affect •• explaining why the change, whether it's technical in nature or some other purpose.

**MR. ZWIRN:**

I'll provide that.

**CHAIRMAN D'AMARO:**

Legislator Kennedy, yes, please.

**LEG. KENNEDY:**

Thank you. Actually just so that we can clarify it, I guess, I would pose this question again to BRO as well. It looks like Resolution 1001, we are not just changing the sub objects, but we are changing the capital project number itself; 5648 is what apparently was originally funded or this resolution refers to the switching of it to Capital Project 5658. My understanding is, is that the

sub objects will actually detail various types of initiatives that may be undertaken under a broader scale. I'm familiar with it with our Parks Department where in one particular case we sought to add additional monies for funding for Blydenburgh Park restoration, which was done through a sub object. But the broader capital project number I would assume refers to two different larger types of initiatives; is that correct?

**LEG. ROMAINE:**

My experience with that capital budgets, and I've done many, is that each capital project gets a number. And you are right about •• you're certainly right about 01, 1001, because they are changing the capital budget number, so it seems that they would be changing the funding source from which this project would be funded out of. I mean, I don't want to cast aspersions or conspiracies or anything like that, but I just would like in the future a simple letter explaining why the technical change was made. Because you're changing a capital project number, you're obviously changing a funding source.

**LEG. KENNEDY:**

Which, I guess, is something that may go to something more than just a scribenor's or a ministerial, because obviously, the bonding that's let with each capital project is specific as to the outcome that's to be achieved from the proceeds of that particular bond. So if 5648 was let for the purposes of bridge reconstruction and 5658 may entail guardrails or highway repaving or something like that, that's a significant shift that takes it out of neighborhood of scribenor's and into a substantive modification. So that I guess is the reason why we really do need to have some level of information on all of these.

**MR. ZWIRN:**

I don't have any problem with that. It's just that nobody's asked for it in the last •• you know, since Legislator Kennedy has been on the committee. So we didn't have anybody here from the Budget Office. But I've asked Tom Vaughn to go back and give Carmine a call and see if he can come over here and maybe answer some of these questions for you. Again, I would ask the committee if they can move them to the floor. If I don't have the answers for you within the next 20 minutes, I'll certainly provide them for you before you vote on them as a full body. Thank you.

**CHAIRMAN D'AMARO:**

All right. Any other questions on Resolution 1000? Okay.

**LEG. MONTANO:**

I'll make a motion.

**CHAIRMAN D'AMARO:**

There was a motion made by Legislator Mystal to approve and place on the Consent Calender, it was seconded by Legislator Montano. All in favor? Opposed? Any abstentions? Motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**

**1001, authorizing certain technical corrections to adopted Resolution No. 1168•2005 (COUNTY EXEC).**

Is there a motion?

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Same motion by Legislator Mystal, seconded by Legislator Montano. All in favor? Opposed? Any abstentions? Motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**

**1002, authorizing certain technical corrections to adopted Resolution No. 1158•2005 (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

Is there a motion?

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Same motion by Legislator Mystal, I'll second the motion. All in favor? Any Opposed? Any abstentions? Motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**

**1003, authorizing certain technical corrections to adopted Resolution No. 1117•2005 (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

Any discussion? Is there a motion?

**LEG. MYSTAL:**

Motion to approve and put on the Consent Calender.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Legislator Mystal to approve and put on the Consent Calender, seconded by Legislator Montano. All in favor? Any opposed? Any abstentions? **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0).**

**1006, sale of County owned real estate pursuant to Local Law 13 •1976, Patricia Herling (COUNTY EXEC).**

**MR. ZWIRN:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Yes. Mr. Zwirn, please.

**MR. ZWIRN:**

The Director of Real Estate, Pat Zielenski is here to explain and answer any questions on the following resolutions.

**CHAIRMAN D'AMARO:**

Okay. Good morning. Thank you. Any discussion or questions? Okay. Legislator Montano.

**LEG. MONTANO:**

What is the 13 again, Pat, it's adjacent property?

**MS. ZIELENSKI:**

This first one is a direct sale of property that had an appraised value of \$1000 and a bid of \$1000 by an adjoining owner.

**LEG. MONTANO:**

What's the size of the lot?

**MS. ZIELENSKI:**

51 by 204.

**LEG. MONTANO:**

51 by 204?

**MS. ZIELENSKI:**

That's correct.

**LEG. MYSTAL:**

Mr. Chairman, if I may.

**CHAIRMAN D'AMARO:**

Yes, Legislator Mystal.

**LEG. MYSTAL:**

51 by 204, is this a locked piece or nobody can get to it? Because that's a buildable area. Can we use that for affordable homes?

**MS. ZIELENSKI:**

No. Anything that's available for affordable homes has not come in with an appraised value of less than \$20,000. The property is landlocked in that the road that runs behind it has not been developed. And if you look in your backup material, there's a tax map. If you look at the thing that is actually part of that •• it's actually part of the road that runs behind the adjoining lot. It's not a buildable parcel.

**LEG. MYSTAL:**

One of the questions I have is that when you have a piece of property like that, 51 by 204, that's a very large piece of property. It's not buildable because we don't have a road behind it ••

**MS. ZIELENSKI:**

It is •• where a road was originally designed to be, it is a roadway.

**LEG. MYSTAL:**

So we sell that piece of land for \$1000, doesn't that increase the value of the property by a lot more than \$1000 from the person who bought it?

**MS. ZIELENSKI:**

Well, the person who brought it already has a two acre lot, and it's just adding 50 feet laterally across the back of their property. It will be accessed to them for whatever the town feels the value increase may be. But the map really shows that it's ••

**CHAIRMAN D'AMARO:**

If you look at the Suffolk County Tax Map, it shows that it's •• you can see that it was proposed to be a road. Would this lot necessarily have value to any other ••

**LEG. ROMAINE:**

Just adjoining property owners.

**LEG. D'AMARO:**

Excuse me?

**LEG. ROMAINE:**

Just adjoining property owners.

**CHAIRMAN D'AMARO:**

Right. My point is it would only have a value to adjoining property owners.

**MS. ZIELENSKI:**

Yes. And it's been offered at an auction format to all of people who touch that property. All of the adjoiners all the way around have had an opportunity to bid on the property.

**CHAIRMAN D'AMARO:**

All right. Any other questions?

**LEG. MONTANO:**

No.

**LEG. MYSTAL:**

I'll make a motion to approve and put on the Consent Calender.

**CHAIRMAN D'AMARO:**

Okay. We're addressing Resolution Number 1003. There's a motion to approve by Vice•Chair Elie Mystal •• I'm sorry, 1006. I apologize. Is there a second on that motion? Seconded by Legislator Stern. All in favor? Any opposed?

**LEG. MONTANO:**

Abstain.

**(\* PLEASE REFER TO PAGE 22 FOR THE CORRECT VOTE ON 1006\*)**

**CHAIRMAN D'AMARO:**

Note that Legislator Montano abstains. The motion carries. At this time I'd like to ask the committee if we could •• it's my apologies, we do have someone waiting who is •• would like to address the committee with respect to an appointment, and if it's •• I think it would be appropriate rather than have Mr. Byrnes wait to call him now. Do I need a motion to actually do that, take it out of order? That would be Resolution Number 1054. I would offer a motion to take that resolution out of order and address it at this time, seconded by Legislator Montano. All in favor? Opposed? Any abstentions? Okay that motion carries. So I'd like to call that resolution.

**1054, appointing a member to Suffolk County Off•Track Betting Corporation Board of Directors (Patrick T. Byrnes \\_Byrne\\_)  
(LINDSAY).**

Mr. Byrne, if you are present, please come on up.

**MR. BYRNE:**

Good morning.

**CHAIRMAN D'AMARO:**

Good morning. And I guess just state your name for the record.

**MR. BYRNE:**

Sure. It's a pleasure to be here in front of you gentlemen today. My name is Patrick Byrne. I know many of you. I am currently the President and CEO of Maximus Financial Services in Commack.

**CHAIRMAN D'AMARO:**

Thank you, Mr. Byrne, and welcome to the committee. And the proposal before us today is a resolution that would appoint you as, I believe, a Director to the Suffolk County Off-Track Betting Corporation. And I'd like to just give you a very brief opportunity if you want to expand on your resume that's been submitted and we all have. Is there anything else you would like to add to that or perhaps tell us a little about your qualifications.

**MR. BYRNE:**

Sure. Absolutely. Again, it's an honor to be here today. My experience has been 20 years in the financial services industry. Again, as I mentioned I'm currently the President and CEO of Maximus Financial Services. We specialize in just about all matters financial; investments, financial planning, retirement planning, insurance, and long term care. As all of you know, and I know Mr. Kennedy who beat the daylights out of me in our election,

congratulations, sir, knows a lot of what motivates me is to benefit the taxpayer. That is my primary driving force.

My past experience has been •• the majority of my experience is managing the financial service companies, managing people, controlling expenses, generating revenues, and again, generating the benefits for the shareholders. So the only difference I see here is the benefit that would be provided to the residents of Suffolk County.

**CHAIRMAN D'AMARO:**

Okay. Very good. So you feel you are bringing to the corporation a mindset, a particular mindset, of let's say reform or perhaps always looking out for the ways dollars are spent on a day•to•day basis.

**MR. BYRNE:**

Absolutely. Bottom line.

**CHAIRMAN D'AMARO:**

Okay. And are you bringing an agenda with you to the corporation as well, do you have specific •• I don't want to go into them here today, but do you have specific ideas as to how you are going to achieve that?

**MR. BYRNE:**

Well, I think first and foremost, and I haven't had really much of an

opportunity to sit down with the new president, Jeff \\_Cassale\\_, but certainly putting together a business plan. I know this body a few years ago put together a Sense Resolution asking the state for more assistance. Revenues at the OTB have gone down substantially over years. I think the public believes that it was more of mismanagement, which does not appear to be the case. The state seems to be dipping in more and more into the revenues. And Suffolk County's percentage of the revenue has declined, that portion going to the New York Racing Association. So the revenue really hasn't changed that much, but the recipient of the funds has.

**LEG. KENNEDY:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Legislator Romaine, please.

**LEG. ROMAINE:**

First of all, I want to say that I know Patrick Byrne and I know his father for well over 25 years and have a good relationship. Unfortunately, I found out that I will be abstaining on your resolution, because, and I want to put this on the record, Mr. Byrne is my stock broker.

**MR. BYRNE:**

Thank you, sir.

**LEG. ROMAINE:**

Yes. I own some stock. And whatever few stocks I got into, he convinced me to get into about two years ago, two, three years ago if I'm not mistaken. However, I do want to ask a question. Do you have an opinion about the need to undertake a study to privatize OTB?

**MR. BYRNE:**

Right now, Legislator Romaine, I would be open as a newbie, as a newbie to this organization and the OTB, I would like to hear any ideas at all. I truly believe no matter what happens with the future of the OTB, the Legislature is going to be critical, because again, the state seems to be less and less interested in us, and that certainly would be a consideration.

**LEG. ROMAINE:**

Criticism without fact is a recipe for disaster. I don't tend to be critical unless there's something there that would justify it, but, you know, at some point, the Legislature may want to consider the possibility of undertaking a study to privatize OTB for a variety of reasons and determine at least, you know, factually whether there is a benefit there or not and if it's something that should be at least examined. But thank you and good luck.

**MR. BYRNE:**

Thank you and thanks for the kinds words.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Yes. Legislator Kennedy, please.

**LEG. KENNEDY:**

How could I let the opportunity pass without having, first of all, a chance to go ahead and thank my opponent. He was actually quite a worthy opponent, and we had an excellent race. And as a matter of fact, I know him to be somebody who has a very good handle on complex financial matters certainly when it comes to investing and things such as that. And he actually had many good ideas that were brought forward during the course of our campaign, and I think hopefully, you know, the people benefited across the board. And I found it to be very positive experience, as a matter of fact, running against him.

Having said all those nice things, I probably will abstain as well. Nevertheless, I would like to ask you about, I guess, some specifics associated with OTB. And first I'll embellish a little bit on what my colleague, Legislator Romaine, spoke about. I happen to be part of a group that actually did undertake a study regarding privatization of OTB back in the early 1990s. That was done under Dr. Koppelman with the Suffolk County Planning Department, and we investigated a variety of different savings that might occur as a result of moving towards privatization.

So I would encourage you to contact the Planning Department to go ahead and pull out some of that material for reference purposes. Certainly many things have changed in the last 14 or 15 years that have come forward. But you also point out, I think, many things that are prudent for us to go ahead as a local body to take a look at. Certainly the handle has fluctuated, the \\_NYRA\\_ surcharges for simulcast have gone up and up and up as far as deductions from what our total handle is. Leases that the agency currently is involved with as far as its various locations and plants throughout the County would probably be a prudent area to go ahead and take a look at. The energy consumption package that we may or may not have with LIPA would also be an area that I believe would probably be prudent. I think there's many areas that would be ripe for investigation and for taking a look. And I guess similar to, you know, what Mr. Romaine said, I would ask you going into it what kind of an overall mindset do you take to this as far as looking at the possibility of making significant changes with this agency?

**MR. BYRNE:**

Well, you know, first of all, in business very quick rapid changes is probably be never a good idea, so I would really want to sit down with the existing members and take a look at how it's operating, looking to control the things that we can control immediately, like increasing revenues. One thing that I would like to personally get involved in is the OTB is a business like any other business, even though it happens to benefit the public, which is something that the people really don't know.

The only press that the OTB seems to ever get is negative press, and I think the taxpayers would be shocked to know that over the last 30 years it has added about 180 some odd million dollars back on to the tax role. So it does provide a significant benefit. But like everything else, I think it needs to be sold and people need to be made aware of it. I would like to see the OTB send members to different business organizations, joining the Hauppauge Industrial Association, various chambers of commerce and make people

aware that we're a business like everybody else, try to grow the business side, try to grow the revenue side, and of course, like everything else, try to control expenses.

One of things I had heard was that the entity right now does not really have job descriptions for people. There are a lot of good people that work there right now. And it seems to work pretty well. But having job descriptions, having everybody be on the same page and kind of managed with one master plan, I think would help out a lot. But again, one critical component I can see just from the documents that I've been allowed to look at so far is getting the state to give us some assistance. It seems to be that more of a priority is given toward the raising industry than the taxpayer. And any of you that know me know where I stand, I tend to put the taxpayer before anybody else. So I definitely that we also need to work together with the Legislature and some of our local Senate and Assembly representatives and try to get them to give us relief. This is not •• the state can raise taxes if they choose to do so, but to kind of come back and pick pocket the OTB is in a sense raising taxes. So I think if we work together we can seriously impact the revenue that the County gets to keep.

**LEG. KENNEDY:**

Do you have any ideas about branching into other types of ventures, primarily OTB, directed towards horse racing? There's been some discussion from time to time about some of the types of video gambling and some other things. You gambling I find, I guess, it's kind of a double•edged sword. It's similar to cigarette tax or alcohol tax. It's a stream of revenue but you wonder about, you know, promoting, I guess, an increase of the source. That notwithstanding, would you look at any other types of ventures for OTB to possibly become involved with?

**MR. BYRNE:**

Sure. In fact, some of the things that are hurting the OTB right now are some of the rules that have been mandated by the state, whereas some of the race tracks were apparently guaranteed a certain minimum level of revenue whether they were open or not. And some of these entities have actually installed on-site gaming type equipment where their revenue isn't such dependent on the tracks anymore, but it also leaves a little bit less of an incentive for them to have a full slot of race cards. So I think that probably looking at any other alternatives would be a good idea and also look at some other laws that are forced upon us that are hurting us.

There also seems to be a problem •• in the securities industry, this doesn't happen. With the Patriot Act and everything else going on, it's very, very difficult to do business with anybody overseas now, even existing clients. For some reason with racing, you can be an offshore provider of horse racing betting facilities, and those •• those entities aren't paying the same amount of taxes and supporting the state like the OTB. And because of that, they're able to reduce their fees to the clients, so we're almost at a competitive disadvantage.

**LEG. KENNEDY:**

Some of that goes to the federal legislation that's in place that actually defines the method for communication, as you well know. And this legislation that went into effect in the '60s certainly predated the internet. Hence now where you have the wireless communication or internet communication. As you know, it's kind of given proliferation to the offshore betting types of phenomenon down in the Caribbean and different places. Would be willing to go ahead and take look at and possibly advocate for federal legislation and/or state legislation that might address some of that, bringing us into the 21st Century?

**MR. BYRNE:**

Absolutely. Absolutely.

**LEG. KENNEDY:**

Okay. Good. Thank you. Mr. Chairman. I've enjoyed the opportunity to have this soliloquy here with Mr. Byrne.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Kennedy.

**LEG. KENNEDY:**

I look forward to having him on board.

**CHAIRMAN D'AMARO:**

Very good. Thank you, Legislator Kennedy. Are there any other questions from the committee?

**MR. PEARSALL:**

Mr. Chairman, I believe there is a Scribenor's error in the resolution.

**CHAIRMAN D'AMARO:**

Yes. Thank you, Mr. Pearsall. I believe the error is in Mr. Byrne's name, and it should read Patrick middle initial E, and the last name should be B•y•r•n•e with no s, and then followed by junior or Jr; is that correct?

**MR. BYRNE:**

That's correct.

**CHAIRMAN D'AMARO:**

Okay. So it would read Patrick E. Byrne, Jr. Okay. And that would be the correction to the resolution. I'll offer a motion to make that correction, is there a second.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Vice•Chair Mystal. All in favor? Opposed? Any abstentions? Okay that motion carries. If there are no other questions of Mr. Byrne, there was a motion that had been made to approve this resolution, and it was seconded. So I'll now ask for the vote? All in favor? Opposed? Any abstentions?

**LEG. KENNEDY:**

Abstain.

**LEG. ROMAINE:**

Abstain for the reason previously stated on the record.

**CHAIRMAN D'AMARO:**

Okay. Legislator Kennedy as well as Legislator Romaine abstain. That motion carries. **APPROVED. (VOTE:4•0•2•0 • Abstention; Legis. Romaine and Kennedy).**

**CHAIRMAN D'AMARO:**

Okay. Congratulations.

**LEG. MYSTAL:**

Or condolences, whichever.

**CHAIRMAN D'AMARO:**

All right. I believe taken the vote on so return back to regular agenda next

resolution.

**1007, sale of County owned real estate pursuant to Local Law 13  
• 1976 Thomas C. Elloitt and Patricia Elliott, his wife (COUNTY EXEC).**

Is there a motion on the resolution?

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal, I'll second. And discussions or questions?

**LEG. MONTANO:**

Just the size of the plot.

**MS. ZIELENSKI:**

It's a 25 foot by 100 foot lot.

**LEG. MONTANO:**

Thank you.

**CHAIRMAN D'AMARO:**

Okay. Motion by Legislator Mystal to approve and place on the Consent Calender. All in favor? Any opposed? Any abstentions? Motion carried. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1007, sale of County owned real estate pursuant to Local Law 13 •1976 Obe Isaac, Travis Wright and Linda Wright (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

Is there a motion?

**LEG. MYSTAL:**

Same motion.

**CHAIRMAN D'AMARO:**

Same motion by Legislator Mystal to approve and place on the Consent Calender, I'll second the motion. On the motion?

**LEG. MONTANO:**

Just again, the size of the plot?

**MS. ZIELENSKI:**

It's a 25 foot lot.

**LEG. MONTANO:**

25 foot?

**MS. ZIELENSKI:**

25 by 100.

**CHAIRMAN D'AMARO:**

Okay. If there are no other questions. All those in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1009, sale of County owned real estate pursuant to Local Law 13 •1976 Salvatore Gurriero and Barbara Gurriero, his wife (COUNTY EXEC).**

**LEG. MYSTAL:**

Same motion.

**CHAIRMAN D'AMARO:**

I'll second. On the motion.

**LEG. MONTANO:**

Same question.

**MS. ZIELENSKI:**

This very irregular piece that's 27 by 51 by 51 by 60.

**LEG. MONTANO:**

Thank you.

**CHAIRMAN D'AMARO:**

All in favor? Any opposed? Abstentions? Motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1010, authorizing the sale, pursuant to Local Law 16•1976, of real**

**property acquired under Section 46 of the Suffolk County Tax Act  
Robert Johnson and Marjorie Johnson (COUNTY EXEC)**

**LEG. MYSTAL:**

Same motion.

**CHAIRMAN D'AMARO:**

Same motion by Vice•Chair Mystal, I'll second.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Kennedy.

**LEG. KENNEDY:**

If we can just go ahead and get the dimensions on this one. If I look at the tax map ••

**MS. ZIELENSKI:**

This is an as•of•right redemption.

**LEG. KENNEDY:**

Oh, it is as•of•right. Okay. All right. Thank you.

**CHAIRMAN D'AMARO:**

Any other •• Legislator Mystal.

**LEG. MYSTAL:**

Pat, can you just explain again what as•of•right means so everybody knows what we're talking about when we say as•of•right.

**MS. ZIELENSKI:**

This is a timely redemption that has been made under the •• under the Local Law that sets forth the process for redemption. And by the time these resolutions come before the committee, the people who are attempting to redeem the property they've lost as tax default have paid the necessary penalties and applications fees and back taxes to warrant their property being returned to them.

**LEG. MONTANO:**

As well as the interest, right?

**MS. ZIELENSKI:**

Yes. Penalties and interest.

**LEG. KENNEDY:**

Just a follow up question, Mr. Chair. Pat, again, refresh my recollection though, with the redemption one we're talking about as•of•right, that's generally something that's at least commenced within the first six month following the actual taking.

**MS. ZIELENSKI:**

Yes, six months from the recording of the deed.

**CHAIRMAN D'AMARO:**

Legislator Kennedy, if I may. I had asked Counsel, Mr. Nolan, if he would give the committee a brief synopsis or overview just to •• for my benefit, of course being new to the Legislature and some others. Mr. Nolan, if you'd like to that now.

**LEG. KENNEDY:**

Because, yes, there is an additional time period when it's permissive, as I believe, and George hopefully can speak to that for us.

**MR. NOLAN:**

Chairman D'Amaro asked me to give a quick overview of the type of resolutions that are known generally as Local Law 13 resolutions, Local Law 16, 215 redemptions and also just to touch on 72•H transfers. The Local Law 13, 16, and the 215 resolution all relate to properties which the County has taken title to for non payment of taxes pursuant to the Suffolk County Tax Act. Generally speaking, these laws lay out the rules by which a prior owner can redeem his ownership of the property from the County.

The Local Law 16 of '76, which is now codified in the Administrative Code in Section A•1429 states the County's interest in property acquired pursuant to the Suffolk County Tax Act may be released on the application of any party who had an interest in the property at the time of the application for a period of up to six months after the County recorded its tax deed.

These applications are made to the Department of Planning, Division of Real Estate with all necessary supporting documents, title reports, they have to pay an application fee, I believe, Pat, and they have to pay the back taxes, penalties and interest. If Planning determines that the applicant is entitled to redeem, then a resolution comes to us, the County Legislature, and we can approve it pretty much as•of•right as Pat suggested.

The 215 resolutions actually get their name from Section 215 of New York County Law, which states basically that a County Legislature has control over county property and governs it. In fact, the rules that govern 215 resolutions are now codified in Section 27, or Charter 27 of the Suffolk County Code. Pursuant to this chapter, the owner of record immediately prior to the time when the County took the tax deed may make an application to the County to

redeem his or her property for an additional two year period after the County has redeemed •• filed its tax deed. So that gives people a period of two years and six months to make an application to the County.

215 redemptions, the requirements are a bit more rigorous. The applicant has to supply an explanation for why the taxes were not paid, and these may include illness or loss of employment. It's important to note for the new Legislators that these applications are actually reviewed by the Legislator in which the property lies. And Legislators actually have to sponsor the resolution for 215 redemptions, that's generally how it's done. Again, no 215 resolution can be approved unless the back taxes, the application fee, the penalties and the interest are paid. These resolutions require a two-thirds vote of the Legislature.

The Local Law 13s, which we've already done a few of those, also apply to properties acquired under the Tax Act, but the purpose of this law was to authorize the County to make a direct sale of a parcel to adjacent property owners. And this is generally done where the appraised value is minimal because of its location or restrictions that are on the deed.

The 72-H transfers applies to all County properties and basically authorizes the County to transfer properties to municipalities, other municipalities, fire districts. And we can do that for consideration or no consideration. A lot of times the way we do it, we give it to towns for affordable housing. And those are the different types of resolutions that come before this committee.

**LEG. STERN:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Thank you, Mr. Nolan. Mr. Stern, you had a question.

**LEG. STERN:**

Yes, thank you, Mr. Chairman. I would just have a question for Counsel. The six month time period where the owner has the opportunity to redeem, is that a six month time period that begins when the County submits the deed to the County Clerk's Office for recording or is that when the County receives the deed as having been recorded back in the County Clerk's Office.

**MR. NOLAN:**

From the time it's recorded.

**LEG. STERN:**

Having received it back from County Clerk's Office?

**MR. NOLAN:**

No. I think it's from the date it's actually recorded.

**LEG. STERN:**

Stamped. So presumably, the County is going to receive the recorded deed back from the County Clerk's Office pretty soon thereafter, right after it's actually been recorded, but it does not start when the County submits the deed to be recorded to the County clerk's Office.

**LEG. ROMAINE:**

When it's recorded.

**MR. NOLAN:**

When it's stamped as recorded by the Clerk.

**LEG. ROMAINE:**

When it's stamped as recorded is the date of recording. You have six months from the date of recording to seek a redemption.

**LEG. STERN:**

Thank you.

**LEG. MYSTAL:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Legislator Mystal.

**LEG. MYSTAL:**

I just wanted to add something for people to understand. The County does not take over the property unless the owner has not paid taxes for three consecutive years. That has to be understood. The person has •• within those three years, the person has the right to just go and pay the taxes and nothing will happen. But if you don't pay your taxes for three years, that's when go and try to take it and record the deed and put it •• then you have to go 13 or 16 or 215.

**CHAIRMAN D'AMARO:**

Yes, Legislator Montano.

**LEG. MONTANO:**

I just want to, you know, emphasize what you said though, even though the property •• the homeowner for whatever reason has not paid taxes for three years, if they redeem within the first six months of the recording of the deed ••

**LEG. ROMAINE:**

It's as•of•right.

**LEG. MONTANO:**

It's as•of•right, but they're also paying all of the interest, the back taxes, plus the penalties, so the County not losing •• it's not being redeemed at a financial loss to the County, is that accurate?

**MS. ZIELENSKI:**

That is. And they also pay an administrative, an application fee.

**LEG. MONTANO:**

Okay. And what is the interest rate, if you know, the interest rate that they would pay on the back taxes?

**MS. ZIELENSKI:**

We're dependent on the Treasurer's calculations.

**LEG. MONTANO:**

Okay. And the penalties, are they not substantial?

**MS. ZIELENSKI:**

It's a percentage of the amount they owe.

**LEG. MONTANO:**

And it's based on a schedule, right?

**MS. ZIELENSKI:**

Yes.

**LEG. MONTANO:**

Okay. And the further you're behind, they more you're being penalized.

**MS. ZIELENSKI:**

That's correct.

**LEG. MONTANO:**

Thank you.

**LEG. KENNEDY:**

Mr. Chair.

**LEG. ROMAINE:**

I believe under General Municipal Law the interest rates that the County imposes is 9%.

**LEG. MONTANO:**

That's statutory, though.

**LEG. ROMAINE:**

Yes. That's statutory.

**CHAIRMAN D'AMARO:**

Legislator Kennedy, please.

**LEG. KENNEDY:**

Just, I guess, a couple of points, and I appreciate Counsel laying out those differences for us. Certainly I've dealt with some of these for many years, but I do find them somewhat confusing. But to embellish particularly on a redemption aspect, and certainly as Legislator Mystal and Legislator Montano spoke about as well, the Suffolk County Tax Act does lay out different time periods for us dependent upon the nature of the property. So while we're usually involved in dealing the residential as far as the redemption, the takings that occur with commercial and/or vacant occur in a much quicker time period. They also, though, do have that as•of•right redemption period, I guess, that's available to them.

But I'm also interested to speak of the fact that we have on occasion entertained redeeming or transferring the property back where it's gone beyond the six month time period when we are in a state that its permissive. This County operating under the Suffolk County Tax Act and Real Property Tax Law elects to allow an additional number of years to run so that any claims, title issues, that may rise are eliminated by time. That being the case, on occasion, dependent upon the set of facts, an individual maybe able to go ahead and we may entertain redemption 12 months later, 18 months later is the facts warrant; is that correct?

**CHAIRMAN D'AMARO:**

Go ahead, please.

**MS. ZIELENSKI:**

The difference that may have to do with most often proper notice ••

**LEG. KENNEDY:**

Mennonite aspect.

**MS. ZIELENSKI:**

Under the Mennonite if, in fact, the property owner has not received proper notice that can restart the clock. But it isn't so much that we have an opportunity to entertain as•of•right redemptions at will or 18 months or four

years down the pike. It's only when there has been some error either through the assessing procedure or through the notice procedure that we are able to do that.

**LEG. KENNEDY:**

The other aspect with this is that we may on occasion see mortgagees and/or judgement creditors that may elect to go ahead and protect based on the fact that ••

**MS. ZIELENSKI:**

They have an interest.

**LEG. KENNEDY:**

•• this is collateral, correct?

**MS. ZIELENSKI:**

Anyone who has an interest, a demonstrable interest in the property.

**CHAIRMAN D'AMARO:**

Thank you. Legislator Montano.

**LEG. MONTANO:**

I think •• if I may, I have been here two years. The newer Legislators are probably at a disadvantage because they missed the debate last year with respect to the change in the law, distributing the proceeds from auction property. But in addition to that, there was task force bill that passed, there was a task force that was set up, which essentially was going to look at the three years that the County would take to •• before they would record the deed and the entire auction process. I know there was a report issued. Do you know where we stand on that? I mean, there have been no changes in the law other than the law that changed the distribution, am I accurate in that?

**MS. ZIELENSKI:**

From the time that the report was issued to the Legislators, we have had •• the committee had no response from the Legislature and has disbanded as per the resolution.

**LEG. MONTANO:**

All right. So basically the task force met, issued its report and that's the end of it.

**MS. ZIELENSKI:**

That's what the task force was requested to do, was merely to make their recommendations to the Legislature.

**LEG. KENNEDY:**

Mr. Chair. Again, through the Chair, I recall that you did an extensive amount of work in that. I would ask if you could forward another copy of that over to myself, because it's an area that I've always had some interest in as to the ultimate length of time that we as an entity wind up holding properties that we have acquired through tax default. Certainly you will agree there may be different things that we can do to cure potential title issues and possibly turn the inventory over quicker if, in fact, there's been abandonment and no interest on the property owners.

**MS. ZIELENSKI:**

I'm happy to forward copies to all the Legislators, but it may take a little while, because we'll have to have some more made.

**LEG. ROMAINE:**

Mr. Kennedy makes an excellent point. In fact, at some point, this County should consider doing a cost benefit analysis of repealing the current laws that affect the taking of property for taxes. As you know, we hold and make all other municipalities whole when we take it, and then we're stuck with holding the property, curing defects of the property and placing it for sale, oftentimes a lengthy process that isn't cost effective as opposed to sale of tax liens. And that's something that has to be taken a look at in terms of cost effectiveness in terms of running the government. Obviously, we won't need half the people in the Real Estate Department if we had tax lien sales or if we had a limited amount of tax lien sales based on certain conditions. So I just raise that issue. I'm sure that's something we're going to be taking a look at in the next year or so.

**MS. ZIELENSKI:**

I might add that part of that was addressed in the report by the committee.

**LEG. KENNEDY:**

Did you speak at all, Pat, about the differences between the residential takings and the commercial and vacant?

**MS. ZIELENSKI:**

Just as the law differentiates.

**LEG. KENNEDY:**

But that may be an area that's ripe for review as far as treating the tax lien themselves differently than where we do in residential. We would have that latitude.

**LEG. ROMAINE:**

Yes.

**MS. ZIELENSKI:**

Yes.

**CHAIRMAN D'AMARO:**

All right. Ms. Zielenski, you had stated that you could make that report available to all Legislators.

**MS. ZIELENSKI:**

Yes. I can't tell exactly when, because I know I only have a couple of copies left.

**CHAIRMAN D'AMARO:**

Okay. Very good. Okay. Picking back up on the agenda, there was a motion that had been made and seconded on 1010 and prompted all of the discussion. So at this time I'll take that vote. All in favor? Any opposed? Abstentions? **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**

It's been brought to my attention also that to go on the Consent Calender, a resolution must receive a unanimous vote of those present on the committee. That did not occur on Resolution 1006 where Legislator Montano, I believe, had abstained. So I would offer a motion to rescind the prior approval of that resolution and to reapprove it.

**LEG. MYSTAL:**

Since I was on the prevailing side of the motion, motion to reconsider so Legislator Montano can rescind.

**CHAIRMAN D'AMARO:**

Is there a second? I'll second that motion. All in favor? Opposed? Abstentions? That motion carries to reconsider.

**LEG. MYSTAL:**

Motion to approve and put on the Consent Calender.

**CHAIRMAN D'AMARO:**

Motion as stated by Legislator Mystal, I'll second. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

All right. Next item on the resolution.

**1011, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Diego Dotres and Iona Irmescu as to 99% interest and Diego A. Dotres as to the remaining 1% interest, as tenants in common (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

Discussion •• or is there a motion rather?

**LEG. MONTANO:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Legislator Montano to approve and place on the Consent Calender, second by our Vice•Chair Legislator Mystal. All in favor? Any Opposed? Abstentions? **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1012, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Suzanne Maria Krawchik (COUNTY EXEC).**

**LEG. MONTANO:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Legislator Montano to approve and place on the Consent Calender, seconded by Legislator Stern. All in favor? Opposed? Abstentions? **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**LEG. ROMAINE:**

Can I ask a point of information?

**CHAIRMAN D'AMARO:**

Legislator Romaine, please.

**LEG. ROMAINE:**

As I read the caption to each of these, it says introduced by the Presiding Officer at the request of the County Executive, and there's no period after and the name follows after that. Is that in violation of our current rules that we adopted on the 3rd?

**CHAIRMAN D'AMARO:**

I'm sorry, Legislator Romaine, if you could just repeat the question.

**LEG. ROMAINE:**

I'm reading the caption to all of these resolutions, and it says introduced by the Presiding Officer on the request of the County Executive, and it doesn't stop there. There seems to be a name that follows, and that seems at variance with the rules that we adopted in this Legislature on the 3rd of January.

**LEG. MYSTAL:**

The County Executive is Steve Levy.

**LEG. ROMAINE:**

I understand that, but we •• in our rules and in the Charter, the County Executive's name is not to appear on these resolutions. The Charter provides that, and our rules speak to the Charter that we adopted on the 3rd of January.

**CHAIRMAN D'AMARO:**

Why don't we •• Legislator Romaine, why don't we first ask our Counsel maybe to give us his opinion on that question.

**MR. NOLAN:**

The Charter does state that the County Executive •• County Executive resolutions can only be introduced through the Presiding Officer. The Charter section states the language that goes in the caption, and it makes no provision for the name of the County Executive to be in the introduction line.

**LEG. ROMAINE:**

So are these resolutions technically flawed in the sense that a correction would be required?

**MR. NOLAN:**

Well, they should not have his name. The rules of the Legislature call for a strict compliance with that section of the Charter. It's my opinion that we can proceed and vote on these, but going forward, the County Executive when he sends over these resolutions should abide with the Charter and the rules.

**MS. ZIELENSKI:**

So noted.

**LEG. MONTANO:**

May I speak on that.

**LEG. ROMAINE:**

I intend not to object any further, but your point is well taken. And I would trust at the next meeting, it will end at the word County Executive. Thank you.

**MR. NOLAN:**

Incidentally, these resolutions, I'm told, were laid on the table at the end of

last year before the new rules were adopted. I think an effort is being made to comply.

**LEG. ROMAINE:**

Thank you.

**CHAIRMAN D'AMARO:**

So in a technical sense the resolutions complied with the rules at the time they were laid on the table. Okay.

**MR. ZWIRN:**

Mr. Chairman. Mr. Chairman.

**CHAIRMAN D'AMARO:**

Mr. Zwirn.

**MR. ZWIRN:**

I don't want to get into a debate, because •• I would just like •• I just would be interested why Legislator Romaine objects. If it was a different County Executive •• I mean, he happens to be the County Executive.

**LEG. ROMAINE:**

That's not the point. We have adopted rules, Mr. Zwirn, and those rules would prevent that from occurring. I only point that out. I'm not going to block or raise any objections to any of the resolutions today, but I think that Counsel spoke wisely that at the next meeting we would trust that the County Executive will comply. And if he doesn't, I'm sure Clerk of the Legislature will strike his name in the future in compliance with our rules.

**MR. ZWIRN:**

Can I ask for just information •• a point of •• why would you object to having the County Executive's name listed?

**LEG. ROMAINE:**

Because our rules do not permit it. The last time I looked •• I served with Steve Levy, he was a member of this body, if he wants his name, you know, come back and join us. If not, be an Executive.

**CHAIRMAN D'AMARO:**

I think Legislator Romaine.

**LEG. MYSTAL:**

You would love that, wouldn't you.

**CHAIRMAN D'AMARO:**

I think Legislator Romaine made it very clear that he's not going to object to moving forward on the resolutions today. Our Counsel gave opinion. And Legislator Montano, I believe, you have something to add to that.

**LEG. MONTANO:**

Mr. Zwirn, the reality is that the Charter is very specific with respect to how a resolution proposed by the County Executive shall be •• you know, the format for that resolution. And our rules now state just to reiterate that there shall be strict compliance with the Charter. And if the •• if you want to change the format, you need to change the Charter. So we are only adhering to what is already in the Charter. And we reemphasized that in the passage of the rule that the Legislature passed this year. Again, no one has any particular objection, this is not directed at a particular County Executive. This is something that is already in the Charter and has been in the Charter for many, many years.

**LEG. ROMAINE:**

Although I don't recall seeing Bob Gaffney or Pat Halpin.

**LEG. MONTANO:**

That's irrelevant. The point is that in looking at the Charter and complying with the Charter, this resolution as it's presented now does not comply. However, as was stated, when it was introduced there really was a question as to the format. So this is an issue of form, which I think is very important, and that's why it's in there. So, you know, we don't think this really is a major issue.

**CHAIRMAN D'AMARO:**

Okay. Next resolution.

**1013, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Helen A. Miller, administratrix of the estate of Anna M. Fogarty a/k/a Anna Fogarty (COUNTY EXEC).**

Is there a motion to approve?

**LEG. MYSTAL:**

Motion to approve and put on the Consent Calender.

**CHAIRMAN D'AMARO:**

Motion as stated by Vice•Chair Mystal, seconded by Legislator Montano All in favor? Opposed? Abstentions? **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0).**

**1014, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Elaine M. Gregus, executrix of the estate of Pauline Meditz, Arlene Hall, Barbara Goydas, Dawn K. Braccio, administratrix of the estate of**

**Edwin G. Michal and Bertha Radske, as tenants in common (COUNTY EXEC)**

**CHAIRMAN D'AMARO:**

Is there a motion?

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal. Same motion, I'll second the motion. All in favor? Opposed? Abstentions? And that motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1015, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Robin Diane Bruce a/k/a Robin Diane Lynn a/k/a Robin Lynn as to 1/2 interest and David Bruce a/k/a David Lynn as to 1/2 interest(COUNTY EXEC)**

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve and place on the Consent Calender, seconded by Vice•Chair Mystal. All in favor? Any opposed? Abstentions? Motion carries. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0**

•0).

**1016, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Oscar Cruz and Silviano Orea (COUNTY EXEC)**

**CHAIRMAN D'AMARO:**

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

**1017, sale of County owned real estate pursuant to Local Law 13•1976, Izydore Gottlieb and Anna Gottlieb, his wife (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal to approve and place on the Consent Calender, second by Legislator Stern.

**LEG. MONTANO:**

Mr. Chairman.

**CHAIRMAN D'AMARO:**

Legislator Montano.

**LEG. MONTANO:**

Ms. Zielenski, could you just tell me the size of this parcel.

**MS. ZIELENSKI:**

This parcel is 50 by 100.

**LEG. MONTANO:**

Is this •• is this investment property, because I note that the purchasers although it's adjacent have an address out of Merrick, New York? So they obviously are not living on the property or they're using a different mailing. So is this commercial or residential?

**MS. ZIELENSKI:**

This is residential property, but it's a direct sale to the adjoining owner. They happen to be the owners that surround this property. They own lots on all sides of this property.

**LEG. MONTANO:**

They own lots on all sides?

**MS. ZIELENSKI:**

Yes, sir.

**LEG. MONTANO:**

Do you know how many parcels they own?

**MS. ZIELENSKI:**

No. I know they own those three.

**LEG. MONTANO:**

And we're selling this for 2288. And conceivably, they could join this property with the others at a substantial increase in their investment. So they could conceivably be picking this up dirt cheap when it has more value to the adjoining properties that they have, unless those are homes, do you know?

**MS. ZIELENSKI:**

I don't know what property is developed and what isn't.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Kennedy.

**LEG. KENNEDY:**

I'd like to pick up on this a little bit too. This is an area that last year, I guess, we had discussion on back and forth off and on occasion. Perhaps more information on this one might help us. A 50 footer in Brookhaven at this point now is considered a substandard, but if this is a tax map lot that predated 1981 for the purposes of issuance of well and septic system out of the Health Department, it is conceivable that, you know, through a single and separate process this could be a parcel that would be deemed a buildable lot. Do you •• do you •• what do the appraisals say for us concerning the buildability or lack thereof of this?

**MS. ZIELENSKI:**

Well, we had this property appraised by a licensed appraiser to look into all of the pros and cons, which is how the value is established. And in a case like this, they would not have established a \$2000 value if they considered it a buildable lot or if the Town of Brookhaven did.

**LEG. KENNEDY:**

But then there again, I'm •• an appraiser, I'm not, a real estate attorney I'm familiar •• you know, I've dealt with. I do not know if a standard appraisal takes into account whether or not application for denial and a subsequent grievance process would yield a building permit out of the town and/or out of the Health Department.

**MS. ZIELENSKI:**

Well, we can't appraise that subjectively. It has to be appraised as it stands, not with whether or not a grievance would be successful.

**LEG. KENNEDY:**

Highest and best, yeah. Highest and best use is what we •• generally is what the standard is for an appraisal process, but highest and best I would think •• I would hope would take into account whether or not, in fact, that's buildable.

The other aspect that I'll go to as far as what Legislator Montano brought up was would the quit claim that we would give on this include restriction language that would bar the parties from splitting and annexing to the adjoining lots or no?

**MS. ZIELENSKI:**

Actually we include that in the deed that it has to be •• it has to be included

into the property that has purchased it. In this case ••

**CHAIRMAN D'AMARO:**

Ms. Zielenski, if I could just note for my colleagues that page two of the resolution itself, the Resolved clause does spell out the language that is to be included in the deed, if you want to take a look at that. It doesn't state there could be no other further subdivision of the merged parcel unless it is consistent with local town and our village zoning codes. But of course, I think what Legislator Kennedy is referring to is there may be a grievance process or a Zoning Appeals process ••

**LEG. KENNEDY:**

I appreciate that, Mr. Chair. As a matter of fact, it is language that we do wind up seeing. But I guess I'll go one step further in our quest, Legislator Mystal as a matter of fact and I once in a while go back and forth, me coming from the Town of Smithtown where it appears affordable housing is nothing but, you know, smoke and mirrors, this may be a lot were we to look at and possibly investigate might, in fact, be something that would be the basis for construction of some affordable housing. So am I to assume that this has been something that has been looked at by our affordable housing ••

Ms. Zuckerman I believe it is.

**MS. ZIELENSKI:**

Everything that we return has been looked at for affordable housing.

**LEG. KENNEDY:**

And in her opinion then this would not be something that would be a workable parcel for us?

**MS. ZIELENSKI:**

And the towns have looked at it as well for affordable housing, and they don't deal with the undersized lots.

**CHAIRMAN D'AMARO:**

Legislator Montano.

**LEG. MONTANO:**

Two things. From what I understand we sometimes where a commercial builder wants to get a •• where we have to get a variance, sometimes they take parcels and the sanitize a parcel in one location to get a variance in another location. If this were a commercial builder, could this property at some future point be used for the purposes of sanitizing land to enhance the value of a commercial venture somewhere else?

**MS. ZIELENSKI:**

Not if it's not a buildable lot in first place. We can only take credits in a sanitizing situation from something that has credits available.

**LEG. MONTANO:**

Well, from when I understand, though, you know •• I'm going to make a motion to table this one if I can get a second on that. If not, then I'll just continue.

**LEG. KENNEDY:**

I'll second the motion.

**CHAIRMAN D'AMARO:**

Seconded.

**LEG. MONTANO:**

I would like to see the appraisal. Is that something that we as Legislators can look, is that permissible?

**MS. ZIELENSKI:**

As far as I know.

**LEG. MONTANO:**

Okay. And just something that Legislator Kennedy picked up on. If this property •• I think you said prior •• I think you said something about prior to

1981 this may technically qualify under a definition of buildable, and I'd like to see if that's in the appraisal. And I have •• you know, I have some experience with appraisals in terms of how the appraised values are determined. So I'm going to ask that we table this one, because there are some questions; the size of the lot is 50 by 100, the prior property •• and this is not an issue that has come up today only. I think you know that this has been •• the last three or four meetings I've asked the question with respect to how large the parcel of land is. Just so you know, it's already on the record, my lot is 50 by 160, which for many areas is undersized, but I think it's fine for me. So I'm going to ask that we table this. I'd like to look into this, I'd like to look into how many parcels in the County we have that fall within the same category, because we may want to propose legislation to address, you know, whatever we find there, or rather I want to propose legislation.

**MS. ZIELENSKI:**

Do you need some documentation from the Town of Brookhaven stating that this is undersized, undevelopable lot?

**LEG. MONTANO:**

Well, I would imagine that that would be included in the appraisal. However, that's the zoning law which is always subject to change by the town board. So I'd like to look at it, I just have some questions, I'm not trying to jam this up. I would like to look at it, I would ask that it be tabled for one cycle.

**MR. ZWIRN:**

Mr. Chairman, through the Chair. Legislator Montano, are you asking the Department of Real Estate to stop going through this process for lots that are

50 by 100?

**LEG. MONTANO:**

No. Right now I'm asking to table it, and I'm asking for a copy of the appraisal and then I will decide.

**MR. ZWIRN:**

Just on this particular ••

**LEG. MONTANO:**

Just on this particular property for now.

**MR. ZWIRN:**

So you don't have any problem with Real Estate going ahead on other ••

**LEG. MONTANO:**

No. Absolutely. Real estate has to do its job pursuant to the existing law. If the law changes, then they'll change procedures, but there's no way that, you know, we can impede what they do and we're not trying to. I'm just asking that this particular resolution be tabled and that I get a copy of the appraisal so I can satisfy the questions I have in my mind with respect to these type

sales.

**MR. ZWIRN:**

Thank you.

**LEG. MYSTAL:**

Mr. Chair, on the motion to table. Pat, would the tabling motion present any kind of hardship for the people •• is there anything, you know, unusual about this piece of property in terms of hardship for the people who are trying to buy it?

**MS. ZIELENSKI:**

Just that we're holding their money.

**LEG. MYSTAL:**

Holding their money. We'll hold it then.

**CHAIRMAN D'AMARO:**

Also, Ms. Zielenski, my backup on this particular bill or resolution does not include the map. Was there a reason why the map was not included on this?

**MS. ZIELENSKI:**

Not at all.

**CHAIRMAN D'AMARO:**

Is it standard procedure to provide a map so we can get a visual?

**MS. ZIELENSKI:**

Yes, it is. The backup that I have included a map, so it must have been an error.

**CHAIRMAN D'AMARO:**

Does the lot itself in question have street frontage?

**MS. ZIELENSKI:**

Yes, it does.

**CHAIRMAN D'AMARO:**

So it's 50 feet along the street front and 100 feet in depth ••

**MS. ZIELENSKI:**

That's correct.

**CHAIRMAN D'AMARO:**

•• is that correct? And the only analysis that's done as part of this process to get it to this point is whether or it's not buildable under current zoning? Is that the limit of the analysis?

**MS. ZIELENSKI:**

Well, that would be a primary part of the analysis that it's not buildable and the fact that our process requires the restrictions and the deed that prevents it from being developed.

**CHAIRMAN D'AMARO:**

And an appraisal is obtained confirming the value as an unbuildable lot, lets say, and just bear with me, I'm a little more new to this process than most, but as a matter of policy, along the time line, this process, does anyone look at whether or not there may be some higher value to those adjoining owners and is there any type of negotiation that takes place?

**MS. ZIELENSKI:**

No. Property has a minimum upset price and is then auctioned as it is offered to all of the adjoining owners. So because it's auctioned to them, there is a market force at work that would possibly increase the price if it were ••

**CHAIRMAN D'AMARO:**

Prior to that taking place, was a property such as this ever subject to auction?

**MS. ZIELENSKI:**

Generally speaking, the small undersized lots that are restricted have value only to the adjoining owner. It's required that the property be attached, if you will, to the adjoining parcel. So it's •• they are not suitable to the general auctions.

**CHAIRMAN D'AMARO:**

Okay. And I have to say that just bringing my experience to this committee as a former Chair of a Town Zoning Board, I can assure you that a 50 by 100 lot can easily be made a buildable lot through an appeals process through the town, especially in light of the fact that the towns are encouraging the development of more affordable homes perhaps on smaller lots. And I think the point is well taken that a lot such as this that has 50 feet of street frontage may, in fact, have some more value than the amount indicated in the bid. I'm just wondering as a matter of policy if considerations such as that are taken into account when going through this procedure.

**MS. ZIELENSKI:**

But as a matter of policy, the towns have asked us specifically to not put these in the buildable category. When they are offered, the lots, under

affordable housing or other municipal purposes, they don't accept them for buildable purposes, and they would prefer they not be built.

**CHAIRMAN D'AMARO:**

So there is a preference indicated by the town in the procedure and a deference given to the town's position the town itself would prefer that the lot be merged with an adjoining and not, in fact, become through some appeals process a buildable plot.

**MS. ZIELENSKI:**

And their zoning states that at this point in time it's not a buildable lot. So the as-of-right zoning development of the lot would not allow it to be developed.

**CHAIRMAN D'AMARO:**

What would it take for the prohibition or the covenant in the deed that prohibits further subdivision to be listed, would it be only through resolution by the Legislature?

**MS. ZIELENSKI:**

Absolutely.

**CHAIRMAN D'AMARO:**

Legislator Montano.

**LEG. MONTANO:**

Just so I'm clear, two issues. One is that you said that this property offered to the adjacent landowners. But I think in this case you said that this land is surrounded entirely by the one owner. So there really is no negotiation, because the only person that is eligible to purchase this particular lot is the adjacent owner because he or she owns or they own everything around; is that accurate?

**MS. ZIELENSKI:**

That's accurate, but it's interesting to note that the appraisal was \$2000, and they bid \$2288 as if they were bidding against someone. So they may or may not have recognized that.

**LEG. MONTANO:**

Well, they can't bid against someone if no one has adjacent property to it, because it must be adjacent. By definition if someone doesn't own the piece of land that's contiguous with this property, they can't bid; am I correct?

**MS. ZIELENSKI:**

Yes, but we don't send out a list. It would depend on how sophisticated the bidders were.

**LEG. MONTANO:**

The second question I have is that in looking quickly at the resolution, the restrictive clause says that it shall not be further subdivided. But I don't think it addresses the issue of whether or not it could be next to a bigger parcel for the purposes of putting a structure on that particular •• you know, once you increase the frontage of the property, you may add a lot more value to the adjacent property, because now when you combine the properties it may, in fact, meet some town commercial building or something of that nature. So there is •• the way I read it, there's no prohibition against annexing it and making it part of a bigger parcel. What the prohibition says is you can't make it smaller, but I'm not really sure, so that's why I want to look at the appraisal.

**CHAIRMAN D'AMARO:**

Any other questions or comments?

**LEG. KENNEDY:**

Sure. I'll just muddy waters the waters a little bit more, why not. If you take a look at the tax map number itself, you can see that, in fact, this lot somewhere along the line was divided, because it is a .00, and so, you know, I concur to a certain extent, I guess, with questions that Legislator Montano raised. Certainly the Chair has pointed out his experience, I guess, as far as sitting, you know, as a Chair of ZBA.

I understand what you are saying as far as the various requests from the town may or may not be, however, I do now that we consistently wrestle with

issues of affordable housing. And certainly, you know, we have the benefit, I guess, of Ms. Zuckerman, but I think it would probably be helpful •• it would be helpful for me to see just a little bit of the history on this parcel; when the subdivision occurred, whether or not we have a lot that predated '81, whether or not it's something that we can take a look at and help on this.

**MS. ZIELENSKI:**

This is an '05 map. The backup information indicates that the road that it faces is not developed.

**LEG. KENNEDY:**

Which takes us into an even further area of murkiness then, because then we would be talking about whether or not the parties may or may not get further benefit from abandonment of a paper street.

**MS. ZIELENSKI:**

That would landlock the property. Abandonment of a paper street would landlock the property.

**LEG. KENNEDY:**

So in other words, there's no road frontage on either side?

**MS. ZIELENSKI:**

Just one side.

**LEG. KENNEDY:**

I don't have the benefit of a tax map in front of me.

**MS. ZIELENSKI:**

I'm happy to share my copy with you.

**LEG. ROMAINE:**

I think the question has been tabled •• motion to table. I would call that question, let's vote on it and move on with the agenda.

**CHAIRMAN D'AMARO:**

Motion to table made by Legislator Montano, seconded by Legislator Kennedy. All in favor of the motion? Any Opposed? Any abstentions?

**Tabled. (VOTE:6•0•0•0)**

**CHAIRMAN D'AMARO:**

Also just to take 30 seconds out again to defer •• to refer to Counsel about the question of a unanimous required to place on Consent Calender.

Mr. Nolan, just if you could comment on that.

**MR. NOLAN:**

My reading of the rules indicates you do not need a unanimous vote of the committee to put something on the Consent Calender. It just takes an affirmative vote of the committee. However, when •• at the General Meeting if somebody objects at that time to the resolution being on the Consent Calender, then it would come off.

**LEG. MYSTAL:**

The rules in the Charter may read that we don't need a unanimous decision, but as a matter of courtesy, if somebody objected to a resolution, we don't put it on the Consent Calender just because somebody objects on the committee. Therefore, there may be other people around the horseshoe when we do convene that may have the same objection, so we don't try to do that. Just as a matter of courtesy, we just don't do that.

**CHAIRMAN D'AMARO:**

All right. Very good. Let's go back to the agenda.

**1018, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Cosmo LaFauci and Kathleen LaFauci, his wife (COUNTY EXEC).**

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal to approve and place on the Consent Calender, seconded by Legislator Montano. Any discussion? All in favor? Opposed? Abstentions? The motion carries unanimously. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1019, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Lauren S. Vaughn (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

Is there a motion on the resolution?

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal, seconded by Legislator Montano to place on the Consent Calender and approve. All in favor? Any opposed? Abstention? And that motion carries unanimously. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1020, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Edward Vaughn, Jr. (COUNTY EXEC).**

I'll offer a motion to approve and place on the Consent Calender, seconded by Legislator Stern. Any discussion? All in favor? Opposed? Abstentions? Motion carries unanimously. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0).**

**1021, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act The Hunt Club at Coram Home Owners Association, Inc. (COUNTY EXEC)**

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve and place on the Consent Calender, seconded by Vice•Chair Mystal. Discussion? All right. On the motion, all in favor? Any opposed? Abstentions? Motion carries unanimously. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0).**

**1022, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act NY State Realty Associates, Inc. (COUNTY EXEC)**

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve and place on the Consent Calender, seconded by, once again, Legislator Stern. On the motion.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Kennedy, please.

**LEG. KENNEDY:**

This •• Pat, I know that we're talking about a 16 here, but this is a fairly substantial amount, I guess, that was tendered, 52,000.

**MS. ZIELENSKI:**

Are we on 23 •• 22.

**LEG. KENNEDY:**

I'm just curious. I see in the Year 2000, we have 40,000 in unpaid tax, and then we went up in smaller increments.

**MS. ZIELENSKI:**

Fifty two thousand and fifty five dollars and fifty cents is the Treasurer's computation.

**LEG. KENNEDY:**

Okay. Again, I guess, we have the benefit of having that forward to us. But I'm just curious as to why '01 through '05 we are in the matters of hundreds or a thousand and in the Year 2000, we have 40,000. I mean, has this parcel been off for many years or •• do we know? Do We know when it was taken in the first instance?

**MS. ZIELENSKI:**

It was acquired in June of 2004. The tax deed was recorded in July of 2004, the application date is in December of 2004.

**LEG. KENNEDY:**

And I see that this is a corporation that is making this application.

**MS. ZIELENSKI:**

I would assume that it's commercial property.

**LEG. KENNEDY:**

But I see a number of years worth of delinquency on this one.

**CHAIRMAN D'AMARO:**

Can I ask, the computation by Suffolk County Treasurer indicates in the Year 2000 almost 41,000 as principle amount due on unpaid taxes. So I would assume there had to be either arrears going before that or maybe the property had been developed and accessed at that time at a much higher value.

**LEG. KENNEDY:**

I just •• I'm curious as to how it is •• you know, we have been, you know, moving along and low and behold we have this lot that now jumps up with a fairly substantial amount of tax to it. And I see it's characterized as only .2, but when you look at the tax map, it's somewhat hard to discern •• I don't know, I'm just •• it strikes my interest, I'm curious.

**LEG. MYSTAL:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Mystal.

**LEG. MYSTAL:**

By way of explanation, sometimes one thing that could happen or may have happened is that the property fell back into arrears and taxes for a certain amount of years, but then when the County decided to take action against them, they started paying the taxes. So for those years the taxes were paid, but the arrears are still there. So probably that's what they are paying. Or they may have paid the taxes in 2003, 2002, but they didn't for 2001 or 2000. So they may have picked up. So I'm just •• I've seen that happen.

**LEG. KENNEDY:**

Sure. I appreciate that as far as a possible. I guess, from my perspective, I'm going to ask if there's additional information that we could obtain on this that gives us something about the history of arrears on this, quite candidly. I'm curious.

**CHAIRMAN D'AMARO:**

Legislator Montano.

**LEG. MONTANO:**

Yes. In looking at the computation, I have to agree with Legislator Kennedy. The Year 2000 has taxes of 40,000 as principle amount due, and then it drops down to 1600.

**MS. ZIELENSKI:**

Well, maybe the office burned down.

**LEG. MONTANO:**

That's what I was thinking, that possibly there was a structure on the property, it's no longer there and the property was reaccessed as vacant land. So if there is a motion to table, I'll second it.

**LEG. MYSTAL:**

You know, as another alternative what I would maybe recommend •• I'm sorry, Mr. Chair, can I?

**CHAIRMAN D'AMARO:**

Yes, please. Legislator Mystal.

**LEG. MYSTAL:**

As an alternative, what I would do, not to hold up \$42,000 for the County, maybe we can vote on it and give it •• let it go without recommendation, and then next Tuesday maybe Patricia can come in and give us more information on Tuesday. It won't be put on the Consent Calendar.

**LEG. ROMAINE:**

Is that a motion?

**LEG. MYSTAL:**

Motion to approve without recommendation.

**LEG. ROMAINE:**

Second.

**LEG. MYSTAL:**

Hopefully we'll get some more information from the Real Estate Department.

**CHAIRMAN D'AMARO:**

Please. Legislator Montano.

**LEG. MONTANO:**

What I'd like to do, Pat, is if you can send the information to my office either by e-mail or whatever prior to Tuesday's meeting.

**LEG. KENNEDY:**

I would like to have that as well. I'll support a discharge without recommendation, but I would have to see a little more in order to be able to

go ahead and support this at the General Meeting.

**CHAIRMAN D'AMARO:**

All right. A motion has made by Vice•Chair Mystal. The motion is to discharge without recommendation, I will second the motion. All in favor? Opposed? Abstentions? **Discharged without recommendation (VOTE:6•0•0•0).**

**MS. ZIELENSKI:**

Mr. Chairman, I just want to caveat on that. The information would be necessary for us to get from Treasurer's Office. And I'm assuming that I'll be able to get some indication of why the change in the tax code, because the exiting taxes are taxed as vacant property.

**LEG. MYSTAL:**

Whatever you can find, Pat.

**CHAIRMAN D'AMARO:**

Okay. We appreciate whatever effort you're going to make.

**1023, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Giacomina Tuttolomondo, surviving spouse of tenancy by the entirety (COUNTY EXEC).**

I'll offer motion to approve and place on the Consent Calender.

**LEG. KENNEDY:**

I'll make the motion.

**CHAIRMAN D'AMARO:**

Okay. Legislator Kennedy offers a motion to approve and place on the Consent Calender. Is there a second?

**LEG. MONTANO:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Montano. All in favor? Opposed? Abstentions?  
Motion carries unanimous. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1037, authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Gail Marie Farrington (COUNTY EXEC)**

Is there a motion?

**LEG. MYSTAL:**

Motion.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal to approve and place on the Consent Calender, I'll second the motion. Discussion? All in favor? Any opposed? Abstentions? Motion is approved. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1041, sale of County owned real estate pursuant to Section 72•H of the General Municipal Law (Town of Smithtown) (COUNTY EXEC).**

Is there a motion?

**LEG. KENNEDY:**

I'll make a motion to approve, but I have a question for Ms. Zielenski on this. I reviewed the resolution, and I see there is a number of parcels throughout the town that are involved. I recall speaking with Mr. Thompson, I guess, a couple of months ago. Is this something that was sought by the town in the first instance?

**MS. ZIELENSKI:**

Yes.

**LEG. KENNEDY:**

It is? And so what are we looking at here, Pat? Is this primarily recharge basins or rights-of-way?

**MS. ZIELENSKI:**

It's a combination. In the backup material, there's an exhibit that discusses each one individually briefly, but, yes, it's a combination of roadways, drainage situations, highway use, some of them are actually in the beds of the highway, and for their park system.

**LEG. KENNEDY:**

And we •• you have had contact with the Supervisor's Office over in Smithtown and the Planning Department, and they are in support of this?

**MS. ZIELENSKI:**

Yes. They have requested •• they've specifically requested these properties, their Planning Department.

**LEG. KENNEDY:**

Okay. As long as we have support on the part of the town.

**MS. ZIELENSKI:**

They are paying us all of the County investment on these parcels.

**LEG. KENNEDY:**

Meaning what, meaning in other words ••

**MS. ZIELENSKI:**

They're paying the back taxes on the property. They're making the County whole, if you will, for a change.

**LEG. KENNEDY:**

Hallelujah.

**LEG. MONTANO:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Montano.

**LEG. MONTANO:**

Pat, there was a situation last year where the County gave property to the Town, I believe, of Riverhead under 72•H for purposes of affordable housing, and then it came back to the Legislature because the town opted to do a parking lot instead of the affordable housing. Do you recall that? Could something like that happen •• these parcels, they are going for different purposes; you mentioned parks, for instance, and other items. Is that what we're dealing with here, you know, a mixed bag of potential uses down the road?

**MS. ZIELENSKI:**

It's a mixed bag of municipal uses that do not include affordable housing in this case.

**LEG. MONTANO:**

All right. But what does municipal uses mean? I mean, that simply says that anything the town wants to do for governmental purposes ••

**MS. ZIELENSKI:**

Public •• governmental or public purposes.

**LEG. MONTANO:**

So they could theoretically make all of these pocket parks?

**MS. ZIELENSKI:**

Yes. Theoretically.

**LEG. MONTANO:**

If that were the case, and I'm not saying that it is, if that were the case, would these bills •• would anything come back to us, or once we •• once we release it, that's the end of our involvement.

**MS. ZIELENSKI:**

We do periodic inspections of any properties that we've turned to the town for •• that have reverters •• that have reverters in the deeds to make sure that, in fact, those properties are being used appropriately.

**LEG. MONTANO:**

So the reverter here simply is that if use for other than municipal purposes, and the municipal purpose that is attached to the parcel isn't included in this bill; is that correct?

**MS. ZIELENSKI:**

There is an Exhibit A that shows what will be ••

**LEG. MONTANO:**

That shows the parcels?

**MS. ZIELENSKI:**

Yes.

**LEG. MONTANO:**

But it doesn't •• it doesn't have corresponding to the parcel the intended use by the town for whatever municipal purpose they're going to use it for; am I correct?

**MS. ZIELENSKI:**

I think it does actually.

**LEG. MONTANO:**

All right. That's what I'm asking. Because all I see in Exhibit A is the tax map number, the street, the town, the date it was acquired, and that's it. It doesn't say it's going to be used for municipal purposes to build a parking lot.

**MS. ZIELENSKI:**

It's attached to the letter from the town, and it says the reason for the acquisition on each parcel. It lists some ••

**LEG. KENNEDY:**

Some of these parcel, as a matter of fact, I'm specifically familiar with, certainly the ones in Nesconset. And I think that they are •• as we discussed, they are recharge basins, maybe possibly access parcels that would run past the town•owned recharge basins, items that may not have been dedicated by developers when a development was build out and subsequently lapsed due to non payment of tax and now have been acquired by the County.

And it's just a more logical way of going ahead and handling the properties. Also, as you pointed out, obviously it's important to go ahead and know what another level of government's intent is with this, but in this case, we are getting the benefit of no longer having to go ahead and be liable for these parcels, and we're relieving ourselves of financial obligation by now getting them off of the tax rolls and obviating the need for us to go ahead and make lesser levels of government whole under the taxes that would be thrown.

**LEG. ROMAINE:**

Call the question.

**CHAIRMAN D'AMARO:**

All right. Before we do, Legislator Mystal.

**LEG. MYSTAL:**

If we're going to call the question, let's go.

**CHAIRMAN D'AMARO:**

All right. Legislator Stern.

**LEG. STERN:**

Call the question.

**CHAIRMAN D'AMARO:**

Once again to Counsel, just that there was an error in the resolution.

**MR. NOLAN:**

Yes. The Fifth Whereas clause mentions the Town of Brookhaven, and that's a scribenor's error that should be corrected.

**LEG. KENNEDY:**

Motion to approve. Motion to approve with the amendment, the correction amendment, that Counsel just referenced regarding the proper town to be included, I guess, in the Fifth Whereas, is that it, Counsel?

**LEG. ROMAINE:**

Second.

**CHAIRMAN D'AMARO:**

Motion as stated by Legislator Kennedy, seconded by Legislator Romaine. All in favor? Opposed? Abstentions? Motion carries.

**LEG. MYSTAL:**

For the Consent Calender too.

**CHAIRMAN D'AMARO:**

And that was for the Consent Calender.

**LEG. KENNEDY:**

Right. I would add to the motion to be placed on the Consent Calender.

**CHAIRMAN D'AMARO:**

Okay. **APPROVED** and placed on the **Consent Calender (VOTE:6•0•0•0)**.

**1051, authorizing transfer of three surplus County computers to Long Island Head Start (ALDEN).**

**CHAIRMAN D'AMARO:**

On the motion •• is there a motion on this?

**LEG. MONTANO:**

Motion.

**LEG. MYSTAL:**

Second.

**LEG. ROMAINE:**

Second.

**CHAIRMAN D'AMARO:**

Motion by Legislator Montano to approve, seconded by Legislator Romaine? Discussion? All in favor? Opposed? Abstentions? **Approved (VOTE:6•0•0•0).**

**1053, adopting Local Law, a Local Law to facilitate the recording of deeds conveyed from the County to redeeming applicant/owner (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

This would require a public hearing. Is there a motion?

**LEG. MYSTAL:**

Motion to approve, and I'd like to have an explanation.

**MR. ZWIRN:**

It has to be tabled for a public hearing.

**CHAIRMAN D'AMARO:**

As it requires a public hearing, motion by Vice•Chair Mystal to table, I will second.

**LEG. KENNEDY:**

On the motion, Mr. Chair.

**CHAIRMAN D'AMARO:**

Yes. Legislator Kennedy, please.

**LEG. KENNEDY:**

I know that we do have to have this tabled for public hearing purposes, but having spent the better part of almost a decade in the County Clerk's office and now serving with the former County Clerk, both he and I •• well, actually let me not speak for him, I'll speak for myself.

**LEG. ROMAINE:**

You can speak for me, John.

**LEG. KENNEDY:**

Okay. I have grave concerns about this bill for a number of reasons. Primarily, I will ask Counsel to go ahead and discuss for us the whole notion or preemption here. As Counsel knows, the requisites for recording are spelled out in great detail in New York State Real Property Law. And this bill appears to me would go ahead and voluntarily have the County assume a duty or obligation, which I believe is actually ultravirus. I do not think that there is ability under Real Property Law for the County to go ahead and voluntarily take on this additional liability.

Many, many, many times I sat at a counter and processed the deeds that parties who redeemed would bring out. I also know from time to time there was great confusion that would occur on occasion because some parties had elected not to go ahead and come to the County Clerk's Office and record that deed. But this is one of the items, I guess, when you're talking about •• this predates our County and our state actually as far as a function. It is something that comes from our Founding Fathers and from foreign countries, that we are a Race Notice State and the recording of deeds is a primary fundamental function that any party permissibly does in order to protect their interest.

And so to go ahead and now voluntarily have the County assume this within addition mandating that parties that redeem tender this additional fee for the County to me appears to be beyond what our authority is.

**LEG. ROMAINE:**

I would only add to what Legislator Kennedy said that state law is pretty clear about recording requirements. There is no requirement in state law currently that if you own property you have to record in the Clerk's Office. By creating this, you seem to fly in the face of stated precedence in state law, you seem to create a problem, you seem to take an obligation and a liability onto the County that is unwarranted and preemptive.

**LEG. KENNEDY:**

I guess, I would turn my comments to both Counsel and Mr. Zwirn.

**MR. ZWIRN:**

I know it's going to be part of a public hearing, but this recommendation came out of Real Estate, and Penny LaValle was one of sponsors that, you know, brought this to the County Executive's attention. And the problem is, as Legislator Kennedy talked about, is that there is •• often apparently they're •• when redeeming the property, the owners are not recording the deeds, so there's a tracking problem, because it still shows that it's owned by the County of Suffolk and creates a problem. And this would give them an incentive ••

**LEG. KENNEDY:**

See that's just ••

**MR. ZWIRN:**

And the tax bills are also not sent to the right addresses. So this is trying to alleviate that problem. We're not trying to contravene the Founding Fathers, you know, that's not the •• that's not the intent of this legislation.

**LEG. KENNEDY:**

So I applaud the intent, however, I take issue with the method, because, as Legislator Romaine just said, we are voluntarily now taking on a liability that is not ours in the first instance to take and may not be •• I'm fairly convinced we just don't have the power to do it. We are preempted by state legislation which occupies the field end to end. There is no daylight in here as far as an area with which at a local level we can peacefully coexist or harmonize. Parties have that responsibility and that duty in order to go ahead and protect their interest by placing it on there.

The deed is no less valid by virtue of the fact that it's not been recorded. And the obligation is upon the accessors to properly go ahead and forward tax bills and for our County tax map agency to properly maintain the tax map numbers associated with those parcels. The fact that individuals for whatever reason don't go ahead and tender for purposes of recording is •• compelling them to do this by mandating payment is beyond the authority that we have in my opinion.

**LEG. ROMAINE:**

We are far afield legally. We are stepping into areas that we're preempted by state law.

**CHAIRMAN D'AMARO:**

I'd ask that we just recognize Legislator Mystal.

**LEG. MYSTAL:**

As Chairman of the next committee, since this resolution has to be tabled and we're going to have a public hearing on it, can we kind of let it go, folks, and pick it up on Tuesday so we can move this agenda?

**MR. ZWIRN:**

Mr. Chairman, can I just ask that since there's a constitutional question that we have an opinion from Legislative Counsel on this for the public hearing?

**MR. NOLAN:**

May I make a quick statement?

**CHAIRMAN D'AMARO:**

Before you do, though, I just want to ••

**LEG. MYSTAL:**

We're trying to move the motion.

**CHAIRMAN D'AMARO:**

I appreciate that. There's a problem that's been identified in recording or the lack of recording deeds, and it's, I understand, a tracking problem. Sometimes when the sale take place and the closing occurs, if the deeds are not timely recorded or promptly recorded ••

**MS. ZIELENSKI:**

Or ever recorded.

**CHAIRMAN D'AMARO:**

Or ever recorded. I'm not sure that as a term of sale if you are going to mandate that the buyer, the successful bidder record the deed, is there a way that the County can remove its liability that Legislator Kennedy is referring to talking to as a condition of sale not being •• although you're paying the fee and the County is going to do the ministerial act of recording the deed, but that the County is not responsible for any failure to do so?

**MS. ZIELENSKI:**

The authority that the redeemer would sign would give the permission and authority for the County to do that.

**CHAIRMAN D'AMARO:**

And is it •• Legislator Kennedy is also indicating, I believe, that this may exceed actually the authority of the County to require that the County record the deed, do you have an opinion on that?

**MS. ZIELENSKI:**

I don't have a legal opinion on that, but I do know that the authority would •• that the redeemer would sign would state that they were receiving the deed.

**CHAIRMAN D'AMARO:**

Wouldn't a successful purchaser know as a term of sale that if you choose to buy a parcel from the County that we would then require if this resolution were turned into law, passed into law, as part of the terms of sale, you would have to record your deed and you know that as a term of sale or a condition

of sale going in?

**MS. ZIELENSKI:**

This isn't really sale, this is just for redemption of property where people have lost their property for tax default, and it's being returned to them through a quit claim deed. And what we're finding is that those deeds don't get recorded in many instances. And as a result, those people who have paid penalties and application fees and additional monies wind up having it repeat itself because they haven't recorded the deed, they don't get the next tax deed in timely manner. They're not in most cases sophisticated property handlers.

**CHAIRMAN D'AMARO:**

When that redemption occurs and the actually deed is physically handed back to the owner or the prior owner in that case, is a title company present at a closing?

**MS. ZIELENSKI:**

No.

**CHAIRMAN D'AMARO:**

So it's really incumbent and the responsibility, of course, falling on the person taking possession of the deed. So if effect this could also could be viewed as helping in the redemption process.

**MS. ZIELENSKI:**

Yes. That was our intention. Our intention was to try to help them, because they think they're going to do it. There's always reasons why they don't get to it.

**CHAIRMAN D'AMARO:**

And perhaps it's explained at the time how to do it, but, you know, if you don't do real estate on a day•to•day basis, it may be something that's a little problematic. Legislator Montano.

**LEG. MONTANO:**

Very quickly, Pat. Do you know who would set the •• because the way I read it, it talks about, the first paragraph in the memo, the payment of an administrative fee, who would set the fee and how much is the fee going to be basically?

**MS. ZIELENSKI:**

The Clerk would set the fee whatever the recording fees are.

**LEG. KENNEDY:**

No. As a matter of fact, the recording fees are established by the State of New York.

**MS. ZIELENSKI:**

But we use his form.

**LEG. KENNEDY:**

But it is very ••

**LEG. MONTANO:**

It's not an additional fee other than that? In other words, this is not a revenue enhancement for the County, is it?

**MS. ZIELENSKI:**

Not at all.

**LEG. MONTANO:**

Okay.

**CHAIRMAN D'AMARO:**

Legislator Kennedy.

**LEG. KENNEDY:**

You know, again, I'm going to defer to the Vice•Chair who has made the request, I am on the next committee as well, but then I'd go so far as to say we may even have constitutional issues then because we're contemplating a gift. If all we're doing is •• is going ahead and mandating that parties tender the recording fee to us, and now we elect to go ahead engage in the courier service that's out there that many private entities go ahead and utilize for the purposed of recording, we can't do that. I'll go again to the fact that I've got grave concerns as far as the foundation of this resolution.

**CHAIRMAN D'AMARO:**

Okay. There was a motion to table, was there a second on that motion?

**LEG. MONTANO:**

I'll second.

**CHAIRMAN D'AMARO:**

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

Skipping over 1054, which was previously addressed and going to number 1063.

**1063, adopting Local Law, a Charter Law to transfer print shop from County Department of Human Services, Civil Service and Personnel to County Department of Public Works (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

On the motion.

**LEG. MYSTAL:**

Motion to approve.

**CHAIRMAN D'AMARO:**

Motion by Vice•Chair Mystal to table.

**LEG. MYSTAL:**

That need a public hearing too?

**MR. ZWIRN:**

Yeah. The next two bills have to be tabled for public hearings.

**LEG. MYSTAL:**

Good. Motion to table. Let's move it.

**MR. ZWIRN:**

It's just been before the committee for so long, I think Legislator Mystal can't believe ••

**LEG. MYSTAL:**

Apparently. Motion to table.

**CHAIRMAN D'AMARO:**

Motion by our Vice•Chair Legislator Mystal in contemplation of the public hearing, I'll second the motion. All in favor? Opposed? Abstentions? That motion carries. **TABLED (VOTE:6•0•0•0).**

**1064, adopting Local Law, a Charter Law creating a County Department of Information Technology (COUNTY EXEC).**

**CHAIRMAN D'AMARO:**

I'll offer a motion to table in contemplation of the public hearing.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Second by Vice•Chair Mystal. All in favor? Opposed? Abstentions? That motion carries, and the resolution is **tabled (VOTE:6•0•0•0)**.

Okay. That concludes the public portion of this committee meeting. At this time, there has been request made for Executive Session by the County Attorney's Office as well as the Department of Risk Management and ••

**LEG. MYSTAL:**

We will be back.

**CHAIRMAN D'AMARO:**

Hold on a second, please. Right. I would like to first request a motion to enter into Executive Session.

**LEG. ROMAINE:**

So moved.

**CHAIRMAN D'AMARO:**

So moved by Legislator Romaine. I'll second the motion. All those in favor? Opposed? Abstentions? Okay. And in that regard, we only are going to permit in the room representatives from the County Executive's Office, the County Attorney's Office, a representative from the Presiding Officer's Office, the aides to the Chair of the Ways and Means Committee, our Legislative Counsel and Assistant Counsel and

also •• all right. And finally, we would also permit Minority Leader Aide to be here as well. Everyone else I would ask to please clear the room.

**(\* AN EXECUTIVE SESSION WAS HELD FROM 11:44 A.M UNTIL 11:55 A.M.\*)**

**(\* THE MEETING WAS ADJOURNED AT 11:55 A.M.\*)**

\\_ \\_ **DENOTES BEING SPELLED PHONETICALLY**