

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 Wednesday, June 3th, 2008.

MEMBERS PRESENT:

Legislator Lou D'Amaro - Chairman
Legislator Brian Beedenbender - Vice-Chairman
Legislator Cameron Alden
Legislator Lynne Nowick
Legislator Vivian Vilorio-Fisher

ALSO IN ATTENDANCE:

George Nolan - Counsel to the Legislature
Gail Vizzini - Director, Budget Review Office
Renee Ortiz - Chief Deputy Clerk of the Legislature
Ben Zwirn - Deputy County Executive
Gail Lolis - County Attorney
Debra Alloncius - AME
Anita Katz - Commissioner of the Board of Elections
Wayne Rogers - Deputy Commissioner of the Board of Elections
All other interested parties

MINUTES TAKEN BY:

Donna Catalano- Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:07 A.M.*)

CHAIRMAN D'AMARO:

Okay. Good morning, ladies and gentlemen. Welcome to the Ways and Means Committee of the Suffolk County Legislature. I'd like to ask everyone to please rise and join in the Pledge of Allegiance led by our Vice-Chair Legislator Brian Beedenbender.

SALUTATION

CHAIRMAN D'AMARO:

We'll turn to the agenda this morning. We don't have any correspondence issued to the committee, but we do have correspondence sent from the committee to State Representatives and the Governor of the State of New York. This is a letter that was discussed when Commissioner Casale was here from Off-Track Betting making some recommendations to the State in supporting our local OTB efforts to enhance the Legislature of the State of New York. I'm going to ask everyone to take that with them today.

We'll take a look at it, and we can -- you can contact me before the next meeting if you have any questions or concerns about it. Hopefully we'll sign off on that letter at our next meeting. We could do it today. Okay. We'll do it today, that's fine with me. Let's take two minutes to read it. Again, it's a letter that was discussed when Mr. Casale was here and we had indicated on the record about such a letter. Now here it is before you. And while the committee members -- I don't have any cards this morning for requests to address the committee. Anyone present other than the Commissioners to address the committee this morning? Any member of the public? For the record, no response. Legislator Viloría-Fisher, are you okay with that?

LEG. VILORIA-FISHER:

I'm almost at the end.

CHAIRMAN D'AMARO:

Legislator Viloría-Fisher, go ahead.

LEG. VILORIA-FISHER:

I thought we could not implement subsidy payments to privately held race tracks. George?

CHAIRMAN D'AMARO:

This is Legislative recommendations. So, Counsel, correct me.

MR. NOLAN:

I believe everything here could be accomplished through State legislation.

LEG. VILORIA-FISHER:

Are there already contracts in place with that? But they could consider it? We're just asking them to consider it. Okay.

CHAIRMAN D'AMARO:

Okay. No objections to the letter. While we're in session, I'm going to ask each member to sign off on it. My office will be sure to get that sent out as soon as possible. Okay.

We'll turn to the next section of the agenda, which is presentations. This morning I'm pleased to announce that we have with us this morning the Commissioners of the Suffolk Board of Elections. I'd like to welcome them both here today. Commissioner, Deputy Commissioner, good morning and

welcome to the Ways and Means Committee.

COMMISSIONER KATZ:

Thank you, Legislators. Yes, we have made progress in that we picked a machine. I will go over all the details, and if you have question at the end, we will answer all of them. When we talk about HAVA, Montauk we're talking about a pool of \$14,840,000. That's sufficient money just for Suffolk. Most of that, 13.5 is for the machines and the balance of is for poll worker training, voter education, upgrades to handicapped polling places. So the bulk of the money, 13.5 million is to purchase the new machines.

We need for you to find us a free place to store these old machines for the year or two. If they cannot find -- and if any of you have been to the Board of Elections, you know, it's three warehouses full of machines. This is not a little area set off where we would, you know, put one or two. If we don't find something that the County can give us as a place to store it, and we find something on the outside, the cost of paying for that storage for a year or two is something that we're going to put in our budget. It will just be an approximation. I'm hoping against hope that the County finds us something, but that is one potential cost that we have out there for '09 that we want to -- and any of you who have contact with anyone on Space Management Committee, it would be a huge savings if we could find something, and any influence would be helpful. There's also the question of software, paying for licenses, it's about 150,000, \$200,000. That will be a new annual expense that we have to pay for the software to keep the machines going.

But the main cost of scanners, and it was one of the reasons actually that I was sort of pro the DREs until I did a little more research about them, the cost of printing the ballots. And that is an ongoing operation cost, annually, it never goes away and it never goes down. We've been trying to come up with an approximation; they're 11 by 17 ballots, so that's obviously the large paper. It's not Xerox thin paper, it's a card stock. It's a light card stock, but it's not paper. The law says, because, you know, New York State makes things more fun than they need to, that regardless of the election, regardless of the experience of the Commissioners, we have to print 115% of the number of registered voters in ballots. So if we have an ED with 100 people, and we're having some obscure committee person's primary where 10 people are going to vote, we would still have to print 115 ballots legally when ten people are going to vote. And those ten people will come and vote, and we will throw the ballots away.

LEG. VILORIA-FISHER:

Recycle them?

COMMISSIONER KATZ:

I don't know that we can, but that's a good point. We will not throw them away, we will recycle them. Absolutely. What we can't do is reuse them. And that, of course, then there's -- the issue of the September primary and a November election. So when this meeting is done, we're going back to have budget meeting to put together -- and at this point we're thinking for printing \$750,000 for the County-wide election, just to print. That's a million voters at the 115%, it's about 50 cents a ballot. Remember, we also print in Spanish, not the same numbers, but we are very committed to printing a sufficient amount of ballots in Spanish. And of course, we have to print the absentee ballots as well, especially in a year like this, although it won't be coming up for this year. So it's definitely 750,000 for the November election.

We are also going to put in the budget, which very well may be removed, and I will be back to discuss it if that happens, another 750,000 for the September primary, because the truth is at no time do you know whether there's going to be a primary, any primary; a primary in a Legislative District or County-wide office where there is a primary, and there is no way to know until it's too late to do the budget. And that's a lot of money to be short. So we're going to budget for 750 and 750 just for the elections we know about.

We never budget for Special Elections, which is impacting us this year and could easily impact us

several times next year. So we never budget for that. And the other little wrinkle in using scanners is the legal system itself, which I know you're all grappling with. We have not even gotten the final judicial decision on the Working Families Case that most of you have talked to me about. It's two years. If there is a primary where someone takes the petitions to court, sometimes we don't get a judge's decision until the day before primary day. So with the old machines, they print the little strips with the winner's name and everybody runs around, right, everybody runs around in the morning and strips them in.

When we were originally interviewing companies to chose from the scanning list, we asked them outline how do -- what's your answer to that problem. We couldn't figure one out. It's different with a DRE, that's a programming issue. You have to print a ballot, and they say the same thing, you have to print ballots for every potential. So if there's a three-way potential primary and there's a court case and you're not going to know till a week before or whatever judge decides to make the decision, you have to print up a full set of ballots, English and Spanish, of course, for all of the potential winners. And then whoever losses -- and I won't say throw away, we will recycle the ones that we don't use, but that is a huge additional expense.

And it isn't often that there's a County-wide primary. But you know, it's easier to get on the ballot now, the rules for petitioning have loosened up. It's just much easier for there to be a primary then there ever was in the past. That is also an additional expense that is going to be fairly high for us. A lot of it's luck. As I said, we haven't had, you know, a County-wide primary in a long time. If you have a primary in a Legislative District, it's one level of an expense. It's not something budgeted for. But it is something we will have to pay for, which will throw off the budget.

So that's an additional piece of the whole printing question. As I said, in any primary, still no matter how small it is, we'd still have to print 115% of the ballots, even though we all know if we got a 10% turnout, it would be great. But the law is what it is. So that's kind of where we are with it.

So we'll probably put a million-five to two million in the budget for printing and -- because that will be the minimum that we know we will need. And then we will back to the Budget Office if it turns out that there's anything else different. The law says that we have to start using the new machines by September of '09. So any potential special that we would have this year or early next year, we're hoping to be able to use old machines. It's all a matter of how the State interprets the law. And it looks like they're going to get us, because the truth is we wouldn't have the new machines, and more importantly, people wouldn't know how to vote on them and people not know how to use them.

So we're going under the presumption that the first time we'll be using them across the board will be for the September Primary regardless of any surprises earlier in the year. I think that's it for my presentation. I don't, Wayne, if you had anything to add.

MR. ROGERS:

Okay. The space that we're trying to secure for these old machines needs to be a workable space. It's got to have at least heat. It probably should have air conditioning, because if somewhere along the line next year we do have to use all these machines, we will not have enough room in our building to have them. So what we're going to have to do is send a workforce to that building to set up these machines to get them out.

So we've spoke to DPW, and they were talking about putting them, I believe, out at the airport in one of the silos. And I don't know how well that's going to work, but it will only hold not even half of them. And it's an interesting situation where they put them on a gantry to bring them down, then they bring them up, and then we'd have to work on them. So it would be very labor intense.

Probably, if we can't have a facility, and we're talking something around 30,000 square feet to put these machines, we could probably use two or three different buildings and work out of that -- that would probably work for us as well. But we -- it needs to be accessible for trucks loading just in

case, for some reason, we're going to need to use these machines next year some kind of Special Election.

And any pressure, and they've been very helpful, but DPW needs to know that this building needs to be up and done before January. And they keep speaking heads, because we're going to get the bulk of our machines at that point and start delivering them. And we don't have any place to put any of them. So anybody that can put a little pressure on them and get them moving, it would be well appreciated. Thank you.

CHAIRMAN D'AMARO:

Okay. Excuse me. Commissioner Katz and Deputy Commissioner Rogers, thank you very much for your presentations, Thorough as usual. And we appreciate it very much. I had a couple of preliminary questions, and then I'll turn it over to any member of the committee.

Commissioner Katz, I wanted to ask you, when we discussed this a few years back in this committee, we had a Special Meeting, we tested some machines, it went very well, as a matter of fact, at that time, it was much more of a cloud hanging over this whole process; machines had not been chosen, there was litigation, after that more, there was even more litigation brought trying to keep the lever machines. I just want to ask you as a general question, is there any pending litigation out there now that could possibly stop the process once? Anything we need to know about? Anything pending? Anything threatened?

COMMISSIONER KATZ:

No. There's no local litigation, no County that has sued or any public interest groups. We're under the mandate of the Federal Court now, because the Justice Department sued the State for being, you know, the last one to do these machines.

CHAIRMAN D'AMARO:

Right.

COMMISSIONER KATZ:

So we are taking our advise and guidance from them -- from the State, and the State takes it from the Federal Court. There is no other litigation out there at all, thank goodness.

CHAIRMAN D'AMARO:

And right now, the State, as far as you know, is in compliance with the directives of the court and the decree that was issued by the court?

COMMISSIONER KATZ:

Absolutely. They've taken it very, very, very, seriously. And they are being careful. And if there's a reason that they don't make a deadline, they go to the judge, they give an explanation and they get a ruling.

CHAIRMAN D'AMARO:

Right. Of course. The reason for that is that it would put the funding at risk should we fail to comply, and we don't want to go down that road.

MR. ROGERS:

Just to add to that, there's a monthly report, they ask for all the information from all the BOEs, and that monthly report does go to that judge. It goes right -- every month.

COMMISSIONER KATZ:

Right. They get an update.

MR. ROGERS:

They want to know where we are, what we're doing, how far we are, and it goes every month to

him.

CHAIRMAN D'AMARO:

Right. All right. A couple of other quick questions from myself, and then, of course, I'll turn it over to any member of the committee. The space issue, the storage of the -- you are talking about getting a new building up for storage of the new machines that are due to be received by January.

COMMISSIONER KATZ:

Yes. When I talk about the prefab addition --

CHAIRMAN D'AMARO:

Right.

COMMISSIONER KATZ:

-- which is one of the Capital Budget items that you all voted for -- thank you very much again -- that's for the new machines. We actually need additional space to store the new machines. That's different than our request to the Space Management Committee, which is is there a place where we can store the old machines for a year or two for the just in case factor.

CHAIRMAN D'AMARO:

Legislator Beedenbender and I are both members of the Space Steering Committee, and you know, we'll be happy to work with you on trying to find a suitable location for the lever machines, which I share your concern about keeping them ready to go.

COMMISSIONER KATZ:

Just in case.

CHAIRMAN D'AMARO:

Just in case.

COMMISSIONER KATZ:

Not for long and not forever.

CHAIRMAN D'AMARO:

Especially since we're talking about 2009.

COMMISSIONER KATZ:

Right. That's the other thing.

CHAIRMAN D'AMARO:

But going back to the actual storage of the new machines, which is a little more sophisticated, I assume. And we talked about that during our budget process. Both you and Deputy Commissioner Rogers are showing concern about having that facility available. Give me -- you know, what are the chances of that not being ready to go based on your daily interactions with DPW?

MR. ROGERS:

Based on the last meeting, I'd say not good.

COMMISSIONER KATZ:

Although, the prefab addition, Wayne, which we just found out about literally this morning, may be the way out of that. In fact, I had actually -- Wayne and I had discussed it before we came up. I had actually had harsher language in my notes, which I crossed out when Ivan Young came and spoke to me about fact that he heard they have now found a prefab setup that is on a County bid. You know what the bid process, that adds six months to saying hello. So now -- if it's on a County bid -- and literally, this is just a metal warehouse and then the HVAC goes in and then electrical

wiring, and that's it.

I think we may be better off than we were yesterday. But it is certainly a concern. When those machines are ready to come, we can't say we don't have any room for them. You know, we all make a joke well, we can each take one home and put it in the garage temporarily, ha-ha. Just, you know, a whistling in the graveyard kind of anxiety. But I was actually glad for the meeting to have the opportunity to at least raise the specter. I know DPW is trying, but there have been unfortunate delays that were put on these various projects, shall we say. We're beyond that point now, but that means now it's late.

CHAIRMAN D'AMARO:

I appreciate the fact that you're saying you're just learning of this today as far as a prefab to meet the January deadline when the machines are due. However, would that be a structure that would be temporary?

COMMISSIONER KATZ:

No. That's a fully complete compliant attached-to-the building structure. That's my understanding.

CHAIRMAN D'AMARO:

So we're not talking about a double hit with cost?

COMMISSIONER KATZ:

Oh, no. No.

MR. ROGERS:

No. And the truth of the matter is when we first met with DPW, we brought that solution to them and said, go out and do a prefab, metal building, the interior is not finished, there's no drywall, nothing, just installation in the building, that's it, and electric. It's a warehouse. And they're concerns were it's not going cold and so forth and so on. Well, there's a bunch of them going up now that are meeting code. So I guess -- I don't know what the hold up was, but it seems that we're making some progress here. And if they would have done this early on, this building would have been done with no problem on time.

COMMISSIONER KATZ:

Discretion being the better part of valor, we'll just say that the hold up was not due to something instigated by the Department of Public Works. And they understand now, and everybody felt, you know, yeah, they come, the talk about the machines coming. They, themselves, have been good about understanding that, all right, it's now. We've talked about it for three years. I understand nobody thought they were coming, but now they are. And I think that's why they looked into the prefab building as well.

CHAIRMAN D'AMARO:

What is the cost of the prefab building?

COMMISSIONER KATZ:

It's definitely what was budgeted. It might be a little less, which is good, because now they think the HVAC may cost a little more. You know, it's always a balancing act. But I don't really have specific numbers since I just found out this morning.

CHAIRMAN D'AMARO:

Right. And just a question in my mind about storage of machines, we're storing our lever machines now at the Yaphank site; is that correct?

COMMISSIONER KATZ:

In the three warehouses, right.

CHAIRMAN D'AMARO:

But those -- we probably talked about this during the budget time. Those warehouses cannot somehow be at a lesser cost converted into storage for the new machines.

COMMISSIONER KATZ:

Oh, the new machines will fill the old -- the three current warehouses, plus the fourth. In fact, one of the Capital Budget items that you passed for us was the air conditioning of the second warehouse. You may recall that warehouse one is air conditioned, warehouse three is air conditioned, somehow two never made it. We're still waiting for the air conditioning in warehouse two. The new machines will be in all four warehouses.

(*Presiding Officer Lindsay entered the auditorium*)

CHAIRMAN D'AMARO:

So the fourth being the prefab up hopefully by January.

COMMISSIONER KATZ:

Exactly.

CHAIRMAN D'AMARO:

And if we don't have that up by January, how many machines do we need to take home to the garage?

COMMISSIONER KATZ:

At least two a person.

MR. ROGERS:

Probably at most 300.

CHAIRMAN D'AMARO:

Three hundred.

MR. ROGERS:

We have some space -- storage space across the street that we have probably about 100 machines really packed in there. You're not able to work on them.

COMMISSIONER KATZ:

The old machines.

MR. ROGERS:

The old machines.

MR. ROGERS:

We'll probably have to lose at least a minimum of three to 400 of them.

CHAIRMAN D'AMARO:

It's all contingent on getting the old machines out, right?

COMMISSIONER KATZ:

That too.

CHAIRMAN D'AMARO:

That's kind of like the Domino effect here.

COMMISSIONER KATZ:

Absolutely. We were able to maneuver -- as Wayne said, put a few hundred across the street. And

you know, it's like a garage; when you need space you can rearrange things and make some space. So we were able to make space for the 10% that we're go to be getting the completed delivery on the other 300. But the full delivery in January, we just expect that building to be up. We have a positive attitude about it. And we know it will be there.

CHAIRMAN D'AMARO:

Okay. So we know that there's litigation out there pending that's going to stop the process at this point. We're working on getting the storage space, the new machines are due in by January for the elections that are coming up this year. We're going to have one machine per polling place for handicapped accessible individuals. The BOE is making efforts on reaching out to that particular community advising that there are new machines and offering advice on how to use them and help with learning how to use them.

But then we get into 2009, and you touched upon the efforts you're going to be making with voter education, the general population on, of course, maximizing turnout. I agree with you, Commissioner Katz, that the last thing we want to do at the end of the day is deter anyone from voting because we're implementing new machines. And you went through several things that Board of Elections is doing, and it's comprehensive. I appreciate that. But one thing I thought about was why not -- if we're getting the machines in January, why not before the September Primary season somehow in addition make machines available where public could actually come and maybe try the machines?

COMMISSIONER KATZ:

Yes. Thank you, Legislator D'Amaro, that was not in my notes. But that absolutely part of our plan to go at least -- to have two or three nights in all the town halls where people will be able to physically practice on a machine. So that will get us into all of the towns. An, we expect to be doing some voter outreach in the local VFWs, senior centers. Everybody at the Board knows we're all in voter education for next year. So we will all be out doing it as well. Absolutely.

CHAIRMAN D'AMARO:

And also, I think all of the County Offices, including ours, everyone should be participating in that outreach, as you had mentioned, and we're to do so. My last area I wanted to just touch on was, of course, the cost of all of this. Is it a fair statement that the cost of complying with the Help America Vote Act is more than the cost we were experiencing over the years historically with voting in primary and general elections?

COMMISSIONER KATZ:

Absolutely.

CHAIRMAN D'AMARO:

It is?

COMMISSIONER KATZ:

Because we'd already obviously purchased the machines. There's no printed ballots, so --

CHAIRMAN D'AMARO:

Well, putting aside the initial purchase. Let's talk about operating going forward.

COMMISSIONER KATZ:

Even then this is more expensive because you have a couple of millions of dollars in paper ballots. That's the easy obvious one for people to sort of wrap their heads around. I mean, there's the cost of software, cost of publicity. A lot of those things can be covered by HAVA, but the ongoing -- I mean, employees are there to fix machines, that's a fixed cost that don't change. The capital outlay for the extra warehouse, obviously it's a large amount of money, but it's a one-time cost. The price of the ballots is the cost of democracy, as I have been saying to people to who have objected to it.

CHAIRMAN D'AMARO:

Right. That is the single largest cost going forward after the initial purchase and outlay for the capital --

MR. ROGERS:

And the programming, because every time there's an election, they have to be totally reprogrammed. And I don't know at this point if we're going to do that inhouse or not.

COMMISSIONER KATZ:

I think eventually Suffolk is actual fortunate because we have one of the best IT people in the State when it comes to election's work. In fact the State Board of Elections uses our employee on their committees. So I think after the first year or two, we will be able to do the programming ourselves. The laws says-- the State Law says that we have to use their programmers, I think, for the first year or two.

CHAIRMAN D'AMARO:

Do you expect after this is all up and running, do you see the elections results becoming more accurate as a result of this?

COMMISSIONER KATZ:

Quite frankly, I think they're accurate now[.|.|.].

LEG. BEEDENBENDER:

I certainly hope so.

MR. ROGERS:

I don't see it any different.

COMMISSIONER KATZ:

Spoken from the new Legislator.

MR. ROGERS:

Whoever designed these machines that we have was ingenious, because just nothing goes wrong with them.

COMMISSIONER KATZ:

It doesn't mean that people don't make mistakes. And that is different. The truth is, though -- and we did have an issue in Huntington this past year -- the one thing you will get with scanners is no matter what, and this is what I tell people when they talk about their anxiety or there's conspiracy theories or anything else, no matter what, there can always be the possibility, even if take two months, to do a recount, because we will always have the physical piece of paper that you came in on and circled the ballots. We obviously won't know it's your particular vote. But no matter, what this is the perhaps low-tech, but goof-proof system. We will always have the paper ballots.

CHAIRMAN D'AMARO:

I'm a little familiar with what happened in that Huntington disputed Election District. Now, had we had this process in place and operating properly, we would have had the paper trail, the paper ballots, that could have simply been recounted.

COMMISSIONER KATZ:

Absolutely. We still would have had litigation if people were going to argue over filled that was a quote legitimately filled-in circled or not, but that's why we have judges. But there would always be a specific piece of paper that you could look at rather than a machine where you have the final number on the back, which we consider the legitimate number, but still, it's the final number. It's not all the individual pieces that led up to it.

CHAIRMAN D'AMARO:

Right. And my last question and then I'll turn it over to the committee members. I had recently seen something on television -- well, it was something visual, it's not anyone's opinion, but I was watching a special on the whole 2000 Election. And they had the punch cards down in Florida. And you could see, they took a photo of the machine reading the punch cards, and if the little punch card piece was still hanging -- chad, I guess, when it went through the machine, the roller would push it back into place, and then the vote would not be counted.

COMMISSIONER KATZ:

One of the really great things about this particular machine that we purchased as opposed to a different one is, as I said, always we'll always have the physical piece of paper, but let's say there's a smudge on the bottom or a stray mark or something like that that's near a box, and we would say, well, all right, we know that so and so got a hundred votes, did that stray mark count? The nice issue of this machine is it creates a disk, it takes a picture, not only the physical ballot, it takes a picture of every physical ballot, puts it on a disk and you can track whether or not it was counted. So if in the recount with 12 lawyers around, everyone will be able to put in a disk and take a look. If it was counted, and then they'll know whether they can take it to a judge. But that would be one way to get around the whole issue. And if they disagree with whether it was properly counted or not, then it goes in the litigation pile. But there will be a way to know whether it was counted just from looking at it.

CHAIRMAN D'AMARO:

Only 12 lawyers? All right.

COMMISSIONER KATZ:

It's actually the literal amount.

CHAIRMAN D'AMARO:

So does anyone -- is there any plan that before -- if I am a voter and I fill out, I guess it's Number 2 pencil that we're filling in --

COMMISSIONER KATZ:

Although, you can use a flare. It's very modern now, you can use anything.

CHAIRMAN D'AMARO:

Is there anyone going to review that ballot before I, the voter, put it in the machine?

COMMISSIONER KATZ:

No.

CHAIRMAN D'AMARO:

No.

COMMISSIONER KATZ:

Because if you think about that, privacy, which is what HAVA is about, for instance, handicapped people have privacy, but let's say in a Supervisors Race, where you can only vote for one and in Council Races, where you can vote for two, you might get confused. So let's say you vote on Row A for Supervisor and Row B, because you're confused, you circle it in, you come up to the scanner, you put it in, the scanner kicks it out, because it's "vote for any one." There's a little screen next to it that will explain the reason. There will be -- Legislator Lindsay is shaking his head, but I will continue.

There will person from the Board of Elections who will explain to you, you don't erase it, that ballot gets voided, the number is tracked. They can't just start, you know, tossing them in their tote bag when they go home. All the ballots are accounted for. And you would get a fresh ballot, and we

would explain to you in this column where there's Supervisor, you're only allowed to vote for one. Under votes are different, because sometimes people only want to vote for one Council person or they don't want to vote for the judges because they don't know who they are. It will say "under vote," if that's what you intended to do, the person from the board will just push a little button there, it says, okay, it shoots it back in.

CHAIRMAN D'AMARO:

And I remember that as a feature of the DRE, that the DRE, which had many, many faults -- and I'm happy that we went with Optical Scanners -- but the DRE at least would tell you that on the screen. It would confirm -- ask you confirm in effect, "are you sure this is how you want to vote, with an under vote or if you made an made error." But the Optical Scanners --

COMMISSIONER KATZ:

You will get that opportunity to do that --

CHAIRMAN D'AMARO:

-- will do that.

COMMISSIONER KATZ:

Right. Once it gets put through the scanner.

CHAIRMAN D'AMARO:

Okay.

MR. ROGERS:

There's a little screen on this side. It's probably about this big and it will come up on that. You'll know exactly --

COMMISSIONER KATZ:

And it actually kicks the ballot out. It physically pushes it out.

CHAIRMAN D'AMARO:

So the screen is telling the voter still within the privacy booth that --

COMMISSIONER KATZ:

It's not within a privacy booth.

CHAIRMAN D'AMARO:

It's not?

COMMISSIONER KATZ:

The booth is where you fill in the circles.

CHAIRMAN D'AMARO:

I see.

COMMISSIONER KATZ:

The scanner is over, let's say, where there will be a person from the Board of Elections. That is an issue where if, as an employee of the board, I would say to the voter, It says for voted twice for Supervisor, so you need to go vote again. So you would get a fresh ballot. I won't know which one of those was a mistake, because you will vote on the new one back in the privacy booth. But there's no way before you put it through a scanner to know whether it's right or wrong.

CHAIRMAN D'AMARO:

But you'll know -- the employee would also say to the voter -- let's say you didn't want to vote in a

particular race that you under voted, and it's up to the voter to know what that means --

COMMISSIONER KATZ:

Well, we'll explain it. We expect it to take a while. It's not going to be easy.

MR. ROGERS:

That's going to happen where it will say, "vote for three."

COMMISSIONER KATZ:

We'll explain to the voter, you didn't vote for any judges, did you mean too. And then the person will then say, "I didn't know who any of them where," let's say.

CHAIRMAN D'AMARO:

So that's where we get right back into the whole voter education.

COMMISSIONER KATZ:

Absolutely. And the first year will be the worst, and the second year will be a bit better and so on and so forth.

CHAIRMAN D'AMARO:

Well, I thank you, again, as Chair of the Committee, for your presentations and I thank you for answering my questions. At this time, there are some questions from members of our committee. I'm going to start with our Vice-Chair Legislator Beedenbender.

LEG. BEEDENBENDER:

Anita, I just have some related and, I guess, some unrelated. Are the handicapped machines, the new machines, are they going to be available for any potential September Primary this year or just the General?

COMMISSIONER KATZ:

No. They will be.

LEG. BEEDENBENDER:

Okay. So the one handicapped machine will be at every polling place for a potential September Primary this year?

COMMISSIONER KATZ:

Yes. They're being delivered in July.

LEG. BEEDENBENDER:

Okay. Then we have to store this paper too.

COMMISSIONER KATZ:

Depending on if we use an use outside printer.

LEG. BEEDENBENDER:

No. No. I mean after people vote.

COMMISSIONER KATZ:

Two years. Two years.

LEG. BEEDENBENDER:

Where?

COMMISSIONER KATZ:

We're hoping to use the warehouse. That's part of the allocation for the extra space.

MR. ROGERS:

When we met with DPW, we designed an area because we knew that we were going to have to store the paper and we knew this was an issue. So we set off an area for that. Hopefully it will work out.

LEG. BEEDENBENDER:

So for two years you have to store all the paper. And obviously climate control and all that other stuff and probably fireproof in some way, shape or form. Okay. That's another nightmare. Can we use our print shop?

COMMISSIONER KATZ:

Perhaps.

LEG. BEEDENBENDER:

Perhaps.

COMMISSIONER KATZ:

It's something that we're seriously considering. The ballots have to be very technically accurate. They have a bar code, because to run through the scanner, obviously, you're not just printing a letter where, you know, the margin is a little off or whatever. But that is definitely something we are looking into.

LEG. BEEDENBENDER:

Okay. And the last question, it's kind of related, I know, obviously, we have to print the ballots in Spanish, why just Spanish?

COMMISSIONER KATZ:

Because the Justice Department sued Suffolk County.

LEG. BEEDENBENDER:

Okay.

COMMISSIONER KATZ:

And that is the largest percentage of non-English-speaking citizens. It reaches a certain Federal threshold. For instance, New York City has five languages because they have Chinese, they have Korean, etcetera.

LEG. BEEDENBENDER:

But there's some sort of Federal threshold that determines when you have to start printing ballots in a new language?

COMMISSIONER KATZ:

Yes.

LEG. BEEDENBENDER:

Okay. That was my --

COMMISSIONER KATZ:

Okay.

CHAIRMAN D'AMARO:

Thank you, Legislator Beedenbender. Legislator Vilorio-Fisher.

LEG. VILORIA-FISHER:

Thank you, Mr. Chair. Thanks, good presentation. I have a couple of questions, the first one being

about the total capital cost for the machines. What's the cost of all of the machines?

COMMISSIONER KATZ:

Okay, but it's not capital, it would be from the HAVA money. So it's the Federal money.

LEG. VILORIA-FISHER:

Okay. Then wait a minute. Then I'm a little confused on the math, because you had said that you -- - we're getting a total of 14 million --

COMMISSIONER KATZ:

I'll break it down for you if you'd like.

LEG. VILORIA-FISHER:

Or 13 and a half for the machines.

COMMISSIONER KATZ:

Right. It's 500 --

LEG. VILORIA-FISHER:

But then you said later on -- wait a minute. Let me just go through this, and you'll know what my question is. Later you said we spent 4.7 on the first 10%. Now, that doesn't make sense, because then ten times that would be 40 million, and actually the total is 13 million. So can you just explain to me why you said -- or do I hear you wrong when you said we spent 4.7 on the first 10%?

COMMISSIONER KATZ:

Yes, for this year. It's not the first 10%, I'm sorry. It's for -- well, it is the first 10% of the total two year's worth of machines. So this year, we ordered 330. Originally it was 400. That's why there may be a discrepancy in the money. So we ordered 330 machines. That's the 10% delivery for us. We've gotten 10% delivered of the 330. The balance of that -- we've gotten, let's say, 40 machines in.

LEG. VILORIA-FISHER:

Okay. So then we've paid for more than we have had delivered.

COMMISSIONER KATZ:

Yes. We paid for entire 2008. I'm sorry, I wasn't clear.

LEG. VILORIA-FISHER:

Okay.

COMMISSIONER KATZ:

We paid for the entire 2008 machines. We had to pay for it all, and then they deliver it in sections. The first 10%, etcetera.

LEG. VILORIA-FISHER:

Okay. That clarified that for me. Thank you.

COMMISSIONER KATZ:

You're welcome.

LEG. VILORIA-FISHER:

The second thing I wanted to suggest, when you were speaking about our outreach initiatives and you talked about a website, direct mail, kiosks, since we're basically moving forward rather regionally on this; Suffolk County and Nassau are both using the same machines, would we be able to share a website, and would that save us money?

COMMISSIONER KATZ:

We have been in talks with Nassau County. I think they are not sure yet who they are going to use to do their website. But it is something that we have been in talks with them about and with the company that we've both hired. It is something we're trying to at least save wherever we can, even if it's ads in the paper, mailings, anything else, but that is always on our mind.

LEG. VILORIA-FISHER:

Good. My third question is on the Spanish ballots. Now, I know that this is a Federal regulation based on the percentage of speakers of the language. Is that for the whole County, or can that be within smaller districts within the County? For example, there are some areas that have a higher proportion of --

COMMISSIONER KATZ:

Yes. There's two different ideas. In terms of the paper items; ballots, signs at each polling place, a pamphlet, an absentee ballot, a booklet, anything we print is in Spanish and English regardless, because if someone calls up and says, send me a Spanish ballot, there's no way to direct where it goes. We have everything we printed in both languages. When it comes to having a Spanish-speaking Board of Elections employee available on Election Day working in a polling place, that is based on a calculation that the Federal Government uses based on Hispanic Surnames. It's a bit arbitrary, but it is one way to presume that perhaps a certain number of people -- so I believe it's over 5% -- then we would need a Spanish-speaking person.

LEG. VILORIA-FISHER:

That's based on County numbers, Anita, is what you're saying?

COMMISSIONER KATZ:

Yes. It's based on our registration.

LEG. VILORIA-FISHER:

For the whole County? So you can't say that within a certain town, it's a different percentage, and so in that town you don't --

COMMISSIONER KATZ:

No. And you never want to take a change, because you don't always -- I mean, Surnames are not obviously always determinative either way. So everything we print and anybody who calls the Board of Elections can get anything we print in Spanish.

LEG. VILORIA-FISHER:

And they would have a case against the County even if that town didn't have the certain percentage of non-English speakers? If the County didn't have that printed, then you would have a problem with the -- - with the Department of Justice?

COMMISSIONER KATZ:

Right. Well, the printing, as I said, is a separate issue. It's not optional for us. Yes, absolutely. The printing is everything --

LEG. VILORIA-FISHER:

Based on a County-wide number?

COMMISSIONER KATZ:

Right. And the Board of Elections employee is based on the Election District.

LEG. VILORIA-FISHER:

On the Election District.

COMMISSIONER KATZ:
That's the Election District.

LEG. VILORIA-FISHER:
Okay.

COMMISSIONER KATZ:
On the Surnames --

LEG. VILORIA-FISHER:
That answers my question.

COMMISSIONER KATZ:
-- which is different than the printing.

LEG. VILORIA-FISHER:
Because now that we're looking at all this money --

COMMISSIONER KATZ:
Believe me, I do understand. But our goal is to have as many people vote as possible.

LEG. VILORIA-FISHER:
Well, that's our hope for everyone, but we're looking at one and a half million dollars a year in paper ballots.

COMMISSIONER KATZ:
Exactly. I know.

LEG. VILORIA-FISHER:
Thank you, Anita.

CHAIRMAN D'AMARO:
Okay. Presiding Officer Lindsay, please go ahead.

P.O. LINDSAY:
Good morning both Wayne and Anita. The law requires that we have to have 130% of the number of ballots of registered voters?

COMMISSIONER KATZ:
I think it's a 115%.

P.O. LINDSAY:
It's a 115%? How about the Spanish ballots?

COMMISSIONER KATZ:
We do not use that number for the Spanish ballots.

P.O. LINDSAY:
So how many -- are the Spanish ballots included in the 115%?

COMMISSIONER KATZ:
No.

P.O. LINDSAY:
It's on top of that.

COMMISSIONER KATZ:

The 115 is English ballots, then there's additional amounts, but, obviously, it's much smaller. I don't have a specific number, and I wouldn't want to venture out, although it's at the Board. We use -- base that, frankly, on our experience based on the number of requests we get based on the number of Spanish Surnames that we have in the County.

P.O. LINDSAY:

God, what are we going to do with all this paper?

COMMISSIONER KATZ:

Well, I don't know if you were here at the time, but I got chastised properly by Legislator Vilorio-Fisher when I said throw away and she reminded me we're recycling. But, listen, I understand how you feel, Presiding Officer Lindsay. We've had this discussion. It is the one drawback, and it is huge for scanners. It is what it is. We don't have a lot of choices.

P.O. LINDSAY:

So we're going in -- there's just one election in a year -- with the Spanish ballots, the English ballots, you're probably looking at 130% of registered voters conservatively?

COMMISSIONER KATZ:

When I spoke earlier, we're budgeting 750,000 for a County-wide just for the ballots.

P.O. LINDSAY:

What happens if you have a challenged election?

COMMISSIONER KATZ:

Yes. Well, this is one of the things that came up. And the only answer to that is --

P.O. LINDSAY:

Print two ballots.

COMMISSIONER KATZ:

-- that you have to print every candidate --

P.O. LINDSAY:

Jesus.

COMMISSIONER KATZ:

-- because the judge may not make a decision. There's no way to run around the way we do now and just slip this strips in two days before when a judge makes a decision. The other thing -- actually, the State, it isn't only us --

P.O. LINDSAY:

So what if you have two challenged positions, you have to print three different ballots?

COMMISSIONER KATZ:

Yes. The State Legislature -- we had gone to a Commissioner's Conference, because we're not the only ones making this complaint, and frankly, Suffolk has a lot more money, even though times are tough, compared to the Upstate counties. The Legislature is -- I won't say considering, that's probably too optimistic -- but there has been some talk about moving back the date for the petitions. Now, June -- actually, yesterday was the first day to start carrying petitions.

If that were moved back, let's say, to March, there would be more time for litigation to be resolved, and we would know what to print. So there was some talk, I think, in the Assembly that they might consider doing it. I'm not very hopeful because we have seen how long it takes for things to get done in the State Legislature. But that would be one solution that we would certainly support. If

they could move back the date for petitions, we'd have more time for the judges to make decisions and the appeals.

P.O. LINDSAY:

The warehouse definitely has to have sprinklers. You're going to have so much paper there that -- I mean, between keeping the ballots for two years and storing --

MR. ROGERS:

I don't know -- to be honest with you, I don't know, when we had all these conversations, that we had added that too.

COMMISSIONER KATZ:

I don't either. One of the things that these --

P.O. LINDSAY:

I don't see how the Fire Marshall will approve that much paper in a storage facility without sprinklers.

COMMISSIONER KATZ:

Well, the other, the Fire Marshall notwithstanding, and I realize that's a crucial issue, but in terms of just having the information, one of the things these machines do is take a picture of every ballot as it goes through and puts it on a disk so we can make sure at least that the disks are in some kind of fireproof box. And we could -- remember, this will be after the election is certified and the decision was made and court cases were finished, we assume. And maybe that's one way to make it fireproof, because it's on a disk, and obviously, that's much smaller than the ballots.

P.O. LINDSAY:

If you have the disk, why do you have to keep the ballots for two years?

COMMISSIONER KATZ:

By law.

P.O. LINDSAY:

I know, but that's stupid.

COMMISSIONER KATZ:

It's not a Suffolk County Law --

MR. ROGERS:

Good point --

COMMISSIONER KATZ:

It's the State.

P.O. LINDSAY:

How about the number of machines and poll workers? That was yet to be determined when we had this discussion.

COMMISSIONER KATZ:

The scanners -- there has to be one handicapped scanner -- style scanner machine in every polling place, so that's one minimum. Every scanner itself can theoretically -- we have not made up our mind ourselves on how many we're going to purchase -- can hold 3500. A maximum, because we have some very large Election Districts, would be, let's say, 1500. So even if you want to be generous, you could say -- that's 100% voter turnout, which you'll never get. You could at least do two for one.

P.O. LINDSAY:

So we might need less machines than the old machines?

COMMISSIONER KATZ:

Might. Yes. But, of course, these are slightly larger than the old machines where, and there's the storage of the paper, which is why we added the fourth warehouse.

P.O. LINDSAY:

No, I'm not talking in terms of the warehouse, I'm talking in terms of the number of machines we have to buy --

COMMISSIONER KATZ:

Absolutely.

P.O. LINDSAY:

-- the number of poll workers, because every machine, you have to have a certain amount of poll workers.

MR. ROGERS:

But it could take longer to vote, so you're going to have to be careful you don't wind up with a situation where everybody is just hanging around. So I think it's going to -- the process is going to have to be seen how it works first.

COMMISSIONER KATZ:

Also, it's not a Presidential Year.

P.O. LINDSAY:

I've got news for you, that first election is going to be -- you are going to have people so confused.

COMMISSIONER KATZ:

Right. And it least it's not -- the Presidential Year won't be until -- you know, going around for one more cycle, which is the biggest.

P.O. LINDSAY:

I know, but it's a Legislative Election Year.

COMMISSIONER KATZ:

Yes, it is. Towns too.

LEG. ALDEN:

I'm feeling the pain.

P.O. LINDSAY:

Yeah, I know you are.

COMMISSIONER KATZ:

The only man smiling.

P.O. LINDSAY:

We talked about print shops. I think you guys are going to have to eventually look at having your own print shop.

COMMISSIONER KATZ:

We have been in discussions with DPW. There are companies that do it --

P.O. LINDSAY:

Well, if you depend on DPW Print Shop to get out the ballots, we're in trouble.

COMMISSIONER KATZ:

I know. Yeah. Well, the print shop is different than, you know, than the building, but it is certainly something we'll have to consider. There are companies that do it for the State, that do it for the State Board of Elections. As long as we are -- and I use the word willing in quotation marks, as long as we are willing to spend the extra money to print a ballot combination for every single person who files a petition regardless of whether a judge keeps them on eventually or not, you could go to an outside company, because they'd have enough time to print. But that's a ludicrous way to spend the money, but that may be at least the first year's answers.

P.O. LINDSAY:

The issue of privacy, how this whole thing started. I mean, when you feed that ballot into the scanner and it kicks it back, the poll worker has to take the defective ballot and store it somewhere.

COMMISSIONER KATZ:

Yes, we do have to keep it.

P.O. LINDSAY:

But there goes your privacy.

COMMISSIONER KATZ:

Yes, but in the end, it does not have your name on. It doesn't say, "William Lindsay." So, although, if they know you and they're standing next to you and they say, "Oh, I see who they vote for," I won't deny that that's not an issue. But when it gets put back into storage with the blank ballots, there's no code that they would know it's you.

P.O. LINDSAY:

I know that, but we went to all this trouble for privacy, and I don't see the privacy.

COMMISSIONER KATZ:

I understand. Well, because originally, it did not start as that issue. It started, as we were talking about, with the hanging chads in Florida. We haven't gotten much farther, but -- and then it became a question of handicapped access to a machine, and that's when it started.

CHAIRMAN D'AMARO:

Hold on. Legislator Lindsay, just one more quick thought. But before I hand that defective marked ballot to someone, can I as the voter -- can I cross it out or mark it up in any way?

MR. ROGERS:

You may be able to fold it and just put it in.

COMMISSIONER KATZ:

I would think so, because it's a void ballot when it gets kicked out.

CHAIRMAN D'AMARO:

It's not going to be put through the machine again anyway, so if I'm standing there with -- my ballot goes through, it gets pumped out and a poll inspector then says to me, "Your ballot will not be accepted by the machine, you need another one," can't I then take a pencil and cross out whatever I did on it?

COMMISSIONER KATZ:

Yes, you could. And when it comes to the handicapped, that is where the HAVA Law has been very careful about privacy issues, because it was -- that was the basis of the privacy issue. If you

visualize a person, let's say, in a wheelchair who's going to use this equipment to help them either push a button or puff and sip or whatever system they use to create the ballot, obviously, they don't have the physical dexterity to put it in the scanner, they have to hand it to a poll worker. There are special sleeves that the machine can see through, but it's -- you know, it's opaque -- well, the machine doesn't see through it, it's an opaque sleeve. It gets -- so then they can hand it to the poll inspector. And when it gets fed in, the scanning machine sucks the paper in, and obviously, we're still holding the sleeve. So there is privacy provided.

P.O. LINDSAY:

Hopefully.

COMMISSIONER KATZ:

I'm doing the best I can, Legislator Lindsay.

MR. ROGERS:

Well, the handicapped machine actually prints the ballot. So once the ballot's getting printed, there's a sleeve it slides into, then you walk to the front, put it in, it goes in. So nobody really sees the handicapped person's -- how they voted at all.

COMMISSIONER KATZ:

But if you're using it, as Legislator D'Amaro is saying, I don't really have an answer to that question. That's the truth. But, yes, you could theoretically draw on it. It wouldn't make a difference, it's never going to be used again. So you could erase or scratch out or whatever.

CHAIRMAN D'AMARO:

Okay. Legislator Lindsay.

P.O. LINDSAY:

I'm done.

CHAIRMAN D'AMARO:

All right. Thank you very much for your questions. Legislator Nowick had a few thoughts.

LEG. NOWICK:

I'm so exhausted listening to all of this.

COMMISSIONER KATZ:

Imagine how we feel.

LEG. NOWICK:

I'm trying to picture it -- and your presentation is wonderful -- just so I can picture it, one machine, one HAVA machine to every polling place.

COMMISSIONER KATZ:

This year, correct.

LEG. NOWICK:

This year. Ready for Primary Day this year.

COMMISSIONER KATZ:

Right.

LEG. NOWICK:

But not being used for the Presidential Election?

COMMISSIONER KATZ:

Not being -- yes, for September and November.

LEG. NOWICK:

It is going to be used for the Presidential Election?

COMMISSIONER KATZ:

Sure.

LEG. NOWICK:

Okay. I thought I heard differently.

COMMISSIONER KATZ:

Right. But it is only -- it cannot be used by the average citizen is what we're saying. It's just for handicapped use.

LEG. NOWICK:

Okay. So it will be used only for handicapped.

COMMISSIONER KATZ:

Right. That's our position.

LEG. NOWICK:

But in the years to come, it will be used for the average citizen?

COMMISSIONER KATZ:

In '09, that's all there is. All the machines are gone, as Legislator D'Amaro said, in your year. Next year, all the old machines are gone. There are only scanners. Every voter will have the big piece of paper and the circles and the scanning.

LEG. NOWICK:

Can you, Anita, just define for me -- I understand what handicapped is, I understand if someone is in a wheelchair, but what are the other handicaps? I think of somebody blind or..

COMMISSIONER KATZ:

Okay. If they're a blind person, it is automatically set up for a headset, a large -- almost looks like a Game Boy box or, you know, a TV box, and you can press it. So a person would put on the earphones, if they're blind, let's say --

LEG. NOWICK:

So if somebody's blind, that's the way they do it?

COMMISSIONER KATZ:

Right. They put it on and then it goes through instructions, they get many opportunities -- it reads off the name of the candidate, "for Governor, Joe Smith," whatever it is. And when they get to one that they want, they would push a button if they have the physical dexterity to push the button. Obviously, that's one level of being handicapped. It goes through the entire ballot, then they get to hear it again, it -- so they have a chance to review it. If they've made a mistake, they get a corrected -- we think it's going to take 20 to 30 minutes for a handicapped voter to vote once.

LEG. NOWICK:

And this paper ballot that you talk about, if there's a blind handicapped person, do they have to fill out the paper ballot?

MR. ROGERS:

No. What happens is it --

LEG. NOWICK:

It creates its own paper ballot?

MR. ROGERS:

Yes. It prints the ballot.

COMMISSIONER KATZ:

Yes. It, like, marks it. It called a ballot marking device. It marks it for you if your hands do not work and you can't mark it yourself.

LEG. NOWICK:

Okay. So if its inaccurate, then the poll watcher says to -- no?

COMMISSIONER KATZ:

No. In that case, it's still all private. It will get read to them, and, I believe, they get a chance to change it while listening to it being read back.

LEG. NOWICK:

Well, that sounds like a good idea right there for everybody, but.

COMMISSIONER KATZ:

Right. And depending upon if they're a quadriplegic, there are additions where they can sip -- puff into a small straw rather than push a button, or of their feet -- people can use foot pads like a toggle to create their vote. It's complicated.

LEG. NOWICK:

You know, those ballots that get kicked back and you can't put them in your pocketbook, but they void ballots --

COMMISSIONER KATZ:

Right. That's the '09 ballot issue.

LEG. NOWICK:

Why can't they just take them and put them in a shredder and not look at them?

COMMISSIONER KATZ:

Because people are concerned that for some reason -- I mean let's say a scanner broke and there are voters there who are filling them out, and we have some kind of a lockbox, but everyone has to -- but a person chooses to leave before it gets scanned in, they have to leave and maybe it needs a technician to come and fix it, you never want there to be even the impression that in some way a legitimate ballot could be destroyed. So they're all numbered, not numbered one, two, three, four five, because then you know how you have the sign-in sheets and all, I would say, "Oh, Lynne Nowick was number five, ballot number five. I know how she voted." They are barcoded, like, you know, a can of soup or something. They have a special barcode on them, and they all have to be accounted for according to the State Election Law at the end of the day.

LEG. NOWICK:

Whether they're accurate --

COMMISSIONER KATZ:

Right.

LEG. NOWICK:

-- or not.

COMMISSIONER KATZ:

So when if there is a mistake and someone even crosses it all out, all void ballots must be accounted for. And think about the litigation if we can't.

LEG. NOWICK:

Anita, I never understood with an absentee ballot -- and this is just on a tangent, but you are here -- if in a small district, let's say St. James or whatever, an absentee ballot comes in, it's signed on the outside, and I know you open up several envelopes to get to the ballot itself, who does that, the poll watchers open those?

COMMISSIONER KATZ:

If they have gone to the poll -- we'll talk about what's current, because we haven't decided what we're going to do when we have the new machines, quite frankly. But for this year, they would get opened, shuffled up, you know, turned over, not read, but turned over, the absentee ballots, if they get sent to the polling place after nine o'clock when they're reading the machines, and they get filed with each other. So if there's three, they get mixed in, and then they get read and marked down so that I wouldn't know which one is yours. Now, if they're opened -- if you are the only one in your polling place, the truth is there is no privacy in it, in the ballot if you're the only one.

LEG. NOWICK:

I'm thinking that privacy thing is not really accurate with the absentee ballots unless you have a very big district maybe, and a lot of ballots come in.

COMMISSIONER KATZ:

Or a big year. Like a Presidential Year, you know there will be lots of people who want to vote absentee. But it is an issue. When we open them at the Board of Elections, we're very careful about it. And, again, we turn them over, no one looks at them, they get interspersed, and then they get opened and looked at. But it is an issue.

LEG. NOWICK:

And so the first year, 2009, the first year that all of the machines will -- are when we're running, but we don't have to worry, because nobody shows up anyway to vote lately.

P.O. LINDSAY:

It's when we're running and Cameron is running for a judgeship that it really gets screwed up.

LEG. NOWICK:

Is Cameron running for judge? Thank you both very much. Very informative.

CHAIRMAN D'AMARO:

All right. Are there any other questions from the committee? Yes. Presiding Officer.

P.O. LINDSAY:

Just one more, if you don't mind. Somebody said it takes like -- it could take like a half hour for a handicapped person to vote. Is that on a separate ballot station, or does that slow up the whole process, everybody behind them?

COMMISSIONER KATZ:

It doesn't, because While they are using either, let's say, the headphones or the rocker paddles, whichever system they're using, the scanner itself still works. So if it was, let's say, a very small district where you only had one handicapped machine with a scanner for the whole ED and that was all there was in that individual polling place, 100 people could still come use the scanner while that person was using the headphones. It doesn't slow up anything.

MR. ROGERS:

But only one person at that point can vote on it.

COMMISSIONER KATZ:

They're different systems.

P.O. LINDSAY:

Right. Because the normal voter just gets a paper ballot and goes in a booth and marks it.

COMMISSIONER KATZ:

Absolutely.

P.O. LINDSAY:

Okay.

CHAIRMAN D'AMARO:

Okay. Thank you. And Commissioner Katz, Deputy Commissioner Rogers, is there anything you would like to just add in conclusion?

COMMISSIONER KATZ:

No. But anything you can do with the Space Management Committee, just a little reminder, would be greatly appreciated.

CHAIRMAN D'AMARO:

On behalf of the committee --

COMMISSIONER KATZ:

Because that would be a big savings for us, and it's not a budgeted item.

CHAIRMAN D'AMARO:

Absolutely. We'll work with you on that. On behalf of the committee, I thank you for updating us. And I also want to thank both Commissioners for taking this so seriously and addressing every issue so comprehensively. Making sure every vote is counted goes, of course, to the very core of our democracy, and you're making that happen. And, of course, we're going to pay for that. So thank you very much for your wonderful presentation.

We're going to go now to the agenda. But I do want to go back and just indicate to the committee members that we did receive a letter during that presentation from Smart Government for Strong Families Coalition addressing the issue that the committee was taking up last time going to the contract procedures in the County. And I just -- I took a brief look at this letter, and I just need to put on the record that I find the third paragraph not to be completely accurate.

The reason why we're not going forward today with additional presentations on the contracting procedures is that I had specifically asked the coalition to give us about a week's notice of the specific contractees that were having problems, so that when the County Attorney's Office or the administration came back and we continued the specific dialog, that they would be prepared to address those very specifics. That did not happen.

So the second portion of the that third paragraph where it says, "Again, on May 7th it was stated by the committee that on June 4th departments would be asked to present again and to be prepared to give and ideas that they feel could improve the system. I believe they had ample time to prepare as this coalition did." That's all true, but in addition to that, we needed ample time also to prepare both sides by getting sufficient advance notice of the particular problems, and that did not happen.

I've invited the coalition, though, to communicate with my office with those specifics. They've agreed to do so. And hopefully, we'll be able to pick up that dialog with sufficient advance notice at our next meeting. Okay. And that correspondence shall be included in the record. Turning now to our agenda -- - or the next portion of our agenda would be Tabled Resolutions.

And I'd like to call the first, **Resolution Number 1033 -- 2008, Adopting a Local Law to establish a prompt contracting policy for not-for-profit organizations (MONTANO)**.

LEG. BEEDENBENDER:

I'll make a motion to table subject to call.

CHAIRMAN D'AMARO:

Okay. Motion by Legislator Beedenbender to table subject to call. Is there a second on the motion for? Okay. For discussion purposes, I'll second the motion. Legislator Alden.

LEG. ALDEN:

You just received the letter from SGSF, right? It's in regard to this legislation?

CHAIRMAN D'AMARO:

Yes.

LEG. ALDEN:

So if we table this subject to call, we're abandoning the pursuit of some kind of a resolution to our late payment policy?

CHAIRMAN D'AMARO:

Well, my answer to that question is no. At least I don't intend to do that as Chair of this Committee. And also, the coalition was not in favor of this resolution. They were looking for a different timeline and different dates and was not speaking in favor and was against this particular resolution.

LEG. ALDEN:

I realize that. But in the absence of any other choice or competing resolution to keep the debate alive and to keep it current, this is the piece of legislation that we have to consider that. So if we table this subject to call, it's almost making the statement that, you know, done talking about that, and I don't think we have finished with that issue. I think that we do have a problem with how we get our payments out. They're not in a timely fashion. Some not-for-profits have still indicated that, you know, the problem persists even to today. And actually what it ends up is a negative, because the not-for-profit has to go out and borrow money that could be used to provide services to our constituents, and they're paying interest instead of doing that. And we don't have a reimbursement policy in Suffolk County. So I'd like to keep it alive.

CHAIRMAN D'AMARO:

Okay. I don't want to debate the actual merits or lack thereof of the bill itself, but I do get your point, that you would prefer not to table it subject to call for those reasons.

LEG. BEEDENBENDER:

I'll withdraw my --

CHAIRMAN D'AMARO:

Legislator Viloría-Fisher.

LEG. VILORIA-FISHER:

Mr. Chairman, actually I was going to support the subject to call, although I understand Legislator Beedenbender --

LEG. BEEDENBENDER:

Well, if it's supported, then I'm going to leave it.

LEG. VILORIA-FISHER:

And the reason is that although, as you know, I'm very committed to the prompt contracting policy, I believe when the sponsor was here at the last meeting, he said he was unwilling to change the

date to meet the needs of the coalition. So perhaps we may need to craft a whole new bill.

I think that was part of the reasoning behind this, because I had actually invited the coalition to my office and invited Legislators Romaine and Monday to meet with them in order to see how we could move forward with this. But there didn't seem to be a meeting of the minds at the last meeting of this committee. I'm fine with, you know, subject to call or a just simple tabling. But I think we may need to craft a new bill is what I'm saying to meet it.

CHAIRMAN D'AMARO:

Legislator Alden, if I could address your comments. I agree with you, as I stated earlier before I even called this particular resolution. I'm committed to continuing with the process to try to get into more of the specifics. And I think from the specifics, we might be able to come up with a clearer policy and perhaps even legislation to address the issue. And I've stated that on the record each time this issue has come up always that, you know, we always talk about the generalities of delay and the result of that delay, and I appreciate that, but you know, talking about that never solves any problems. And what I'm trying to do and what I'm committed to doing is getting into more of the actual specifics, and the coalition is working with us to do that as is the Executive Branch.

From that, I think we might be able to then come up with a clearer policy and perhaps more realistic deadlines, whatever it's going to be. So at this point, by tabling it subject to call is not by any means taking it off the agenda for this committee. I can assure you of that.

LEG. ALDEN:

Mr. Chairman, may I ask question?

CHAIRMAN D'AMARO:

Sure.

LEG. ALDEN:

And it goes to Legislative Counsel. The procedure to call it if it's tabled to subject to call would require an affirmative vote by the majority of the committee?

MR. NOLAN:

To recall the bill, to get it before you, would require a majority of those present and voting, because it's not a discharge motion, it's just to -- all actions other than a motion to discharge require a majority of those present and voting as long as we have a quorum.

LEG. ALDEN:

Right. But then I just renew my appeal that we don't table it subject to call, because that puts another procedure, another vote in there, that we can just discuss it at the next meeting, but I just would continue that appeal.

LEG. VILORIA-FISHER:

May I just make one more comment?

CHAIRMAN D'AMARO:

Yes. Legislator Fisher.

LEG. VILORIA-FISHER:

Actually I was on the phone with Erica Chase this morning. I am disappointed that there was some miscommunication, because she had lined up people with very specific issues, which is what the Chair had asked her for. But I think that whoever she spoke with thought that it was going to be another presentation, and so she didn't have the people come and speak. But it is going to stay alive, Legislator Alden.

I was on the phone for quite a while this morning with Ms. Chase. And she will be bringing the very

specific and detailed information on different contract agencies for the Legislature to look at. And so as I said, I have made a commitment that I will continue to work on this. And I will. In the form that we see before us, I don't think that's it's going to be moving forward. That's my concern.

CHAIRMAN D'AMARO:

Right. Okay. If there's no other comment, I will call the vote. There's a motion pending before the committee to table the resolution 1033 of 2008 subject to call. All those in favor? Opposed?

LEG. ALDEN:

Opposed.

LEG. NOWICK:

Opposed.

CHAIRMAN D'AMARO:

Two opposed, three in favor. Motion carries. And the resolution in **TABLED SUBJECT TO CALL (VOTE: 3-2-0-0; Opposed - Legis. Alden and Nowick).**

1054, Adopting Local Law No. 2008, A Local Law to strengthen competitive procurement procedures and maximize savings for taxpayers. (Eddington)

I believe the public hearing is still open. I'll offer a motion to table on that basis.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by our Vice Chair Legislator Beedenbender. All those in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 5-0-0-0).

1158, Naming the Supreme Court Building in Riverhead the "Thomas M. Stark Supreme Court Building". (Romaine)

LEG. NOWICK:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Nowick, I'll second. Just for the committee's information, the what I call the Naming Committee is meeting this afternoon right after this committee to, again, take this up. And hopefully we'll have a recommendation one way or the other by our next meeting. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. Resolution is **TABLED (VOTE: 5-0-0-0).**

1235, Review of auction rules for the disposition of surplus property acquired under the Suffolk County Tax Act. (Co. Exec.)

These rules have been under consideration for a couple of cycles now by the committee and tabled at the request of our Counsel or Real Estate. Gentlemen, are we prepared at this point to move forward with our auction rules?

MR. KENT:

Has everyone received the latest amendment dated June 2nd? If not, I have -- I have one copy that I could give to the Clerk for distribution.

MR. NOLAN:

The concerns I had raised earlier was that a couple of Local Laws that have been passed affecting the auction of properties have not been incorporated into the rules. I think we had gotten a copy that inadvertently left out the changes, for example, that on a habitable property the owner would have to live there for ten years as opposed to five after the sale. And also, we had passed a Local Law putting a surcharge on the sale price so we could do proper maintenance and upkeep of the properties, that's been incorporated into the rules. So I think, from my perspective anyway, this looks like it's ready to go.

CHAIRMAN D'AMARO:

Okay. Mr. Kent, is there anything you would like to add for the record?

MR. KENT:

Yes. Both those additions were made. The restrictive covenant language has been amended in paragraph 15 of the proposed rules to add the ten year requirement and to delete the five year. And the slap charges were added in -- into the auction fee paragraph, paragraph 27. There are some other changes throughout, more minor, referencing the October 2008 auction as opposed to the prior one.

LEG. BEEDENBENDER:

Motion to approve.

CHAIRMAN D'AMARO:

Okay. Motion by Vice-Chair Beedenbender to approve, seconded by Legislator Viloría-Fisher. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. The resolution is passed, and we now have rules. **APPROVED (VOTE: 5-0-0-0).**

**1298, Establishing owner occupancy requirements for North Bellport properties.
(Browning)**

This was also legislation that had been amended. And perhaps, Mr. Kent, could you give us a quick explanation of the bill as well as the amendments, the recent amendments?

MR. KENT:

Well, I think there are still some issues. It's not my bill.

CHAIRMAN D'AMARO:

I understand that.

MR. KENT:

But there are still some issues that I think need amendment in this bill, and I also have some general comments, but I'll just focus first on the amendments that I think are necessary. In the Sixth Whereas Clause it references -- it references the old restrictive covenant, which requires the bidder to occupy the premises for five years. It should really say -- as amended by Resolution 276 of '08, the language should state that the parcels that are sold at auction are subject to a restrictive covenant that runs with the land.

LEG. VILORIA-FISHER:

Which Resolved are you in?

MR. KENT:

The Sixth Resolved.

LEG. VILORIA-FISHER:

Whereas or Resolved?

MR. KENT:

Excuse me, Whereas. Whereas Clause. It should state there that the restrictive -- subject to a restrictive covenant that runs the land requiring the owner or his parents or children to occupy said premises for a period of at least ten years.

CHAIRMAN D'AMARO:

Okay. That would be a change to the Whereas Clause. What about the Resolved Clauses, the substance of the bill itself?

MR. KENT:

Okay. Now going to the substance of the bill, you know, I'm not sure this proposal will have good or desired affect unless, of course, your desired affect is to discourage any bids on the properties at the next auction.

The buyers of vacant land at auction tend to be builders, because individual home buyers generally do not have the experience in buying vacant land, securing financing and then building a home on the vacant land. They would have to either have the money in hand to purchase the land from the County and then secure construction financing, secure all the necessary permits from the town and the County in order to construct a residence. That not impossible, but it's improbable from my experience and a rare case. Many of these -- one last thing. Many of these vacant land parcels are also on paper streets.

CHAIRMAN D'AMARO:

Let me stop you there, Mr. Kent. My understanding of the legislation, though, is if we're talking about non-habitable improved parcels or vacant and parcels, obviously -- for residential use, obviously the intent of a bidder in most instances would be to construct a home or to rehab a home, let's say. We had talked about an amendment to the bill -- and maybe Counsel can address this -- an amendment to the bill that was going to exclude from the covenant the initial bidder or builder and -- or does that -- does this bill before us accomplish that, or would the covenant apply to the builder?

MR. NOLAN:

I don't know if Mr. Kent has seen the most recently amended version, which was amend 6/2, but in any case, you know, that's the -- we've been wrestling with that problem. We recognize that in terms of vacant parcels, non-habitable parcels, you are going to a builder, a developer in there. So the latest revision to the resolution states that the sale is going to subject to restrictive covenant requiring upon the construction of a residential dwelling upon the parcel that the owner reside at the premises and that the restriction will run with the issuance of a Certificate of Occupancy. So we've tried to address that issue. If in some way technically you think this is not doing the job, I'd be interested to hear back from you on that.

MR. KENT:

If you go forward with this, I will have to amend the rules again. So I can want to be -- so I can clarify to the potential bidders that it's not so restrictive as to prevent them from constructing a residence, just from whom they -- that they can't own it after they construct it, that they'd have to sell it to an owner occupier. So I'd have to amend the rules so that they understood that.

CHAIRMAN D'AMARO:

Right. They could own it as long as they reside there.

MR. KENT:

Well, like I said, on these types of properties, the vacant properties, you're going to tend not to have -- the buyer is not going to tend to live in these properties. Builders are going to buy these vacant -- these vacant parcels.

CHAIRMAN D'AMARO:

Right. But the language I'm looking at, which our Counsel referenced from June 2nd amendment of

2008, the practical effect, I think, accomplishes my concern, because it now reads that -- it says the owner of the parcel or his natural children -- his or her natural children, parents, etcetera occupy the premises. Well, if you're buying vacant land, obviously the owner cannot occupy the premises until a house is build and COd. So then the owner, who would be the builder, let's say, in that instance, once the house is COd, would have to either move in and live there or sell it someone willing to do so.

MR. KENT:

Right. So that's what I was saying. So I'd have to amend the rules so that the buyers of these parcels understand that once they build the property and secure the CO, they must contract to sell it to someone who's going to own it and occupy it for ten years.

CHAIRMAN D'AMARO:

Right. And this bill accomplishes that, and I think that was the intent of the sponsor in putting the bill in in the first place. Mr. Nolan.

MR. NOLAN:

I just wanted to state, by the way, for the members of the committee that this just does apply to a specific geographic area, North Bellport. It's not a County-wide initiative.

CHAIRMAN D'AMARO:

Correct. Right. The other issue I had -- and, you know, we may want to consider discharging without recommendation to allow the Whereas Clause to be corrected. But the Fifth Resolved Clause says that this resolution shall be in effect and shall apply only to the first Suffolk County real estate auction conducted after the effective date of this resolution. I read it about five times. And my understanding is that this is a one-shot kind of time that we're going to impose this covenant, and then it's not effective? What's the intent?

MR. NOLAN:

The intent of the sponsor was just to have it apply to the next auction, which now is the October auction. So that's the reason for that particular clause. And that's why it's a resolution, because it's not an indefinite.

LEG. VILORIA-FISHER:

So it's not a Local Law.

MR. NOLAN:

Right. So that was her intention, that's why it's in there.

CHAIRMAN D'AMARO:

Legislator Beedenbender.

LEG. BEEDENBENDER:

Well, I assume that because Counsel drafted it that it's legal. I'm not questioning that. It just seems that -- I understand the sponsor's intent, but I just -- I'm unsettled with how we can -- I know what she's trying to get at, but we're going to pick a specific area of the County and put a specific rule for a one-shot because we know that there are a bunch of properties that are on the auction block? I'm not sure -- if we've done it in the past, then I guess --

CHAIRMAN D'AMARO:

I'll defer to our Presiding Officer to answer that, if you'd like to.

P.O. LINDSAY:

The only thing that I was going to say quickly is from a prior life I'm familiar with this area. And it's been an area that slumlords have dominated where they bought property or houses or sometimes had houses almost gifted to them by the towns with the -- when they were supposed to live in them,

and they turned them into really -- they rented them out, we wound up paying tab, and the houses were horrible. So I appreciate what the sponsor is trying to do. It's a horribly depressed area that profiteers have taken advantage of year after year after year.

LEG. ALDEN:

Mr. Chairman.

CHAIRMAN D'AMARO:

Yes. Legislator Alden.

LEG. ALDEN:

Specifically to Legislator Beedenbender's question, traditionally what happens would be a community development agency would develop either rehab project or a rebuilding project, and we would deed it to the community develop agency who would work with a not-for-profit and build the type of restricted housing that you're looking for, because to rebuild a neighborhood, five or ten years, restricting it to the original purchaser, that's a way to anchor the neighborhood.

This is a different slant at it, but the affect here is it's going to diminish the proceeds that we would receive at auction, because if it's unrestricted property, somebody can come in there with their own idea of what they're going to do with this, whatever it is, five building lots, ten building lots, two building lots. And it's going to go more towards where we completely restrict it and send it to a CDA and we get nothing for it as opposed to free market where we auction it off to somebody that can go and build whatever they want on it. So we are going to see a diminishment of the amount of money that we would get at an auction with a restriction like this. And I'm not so sure that it will accomplish 100% what we could accomplish through a community development agency type of action.

CHAIRMAN D'AMARO:

Mr. Kent, do you know offhand with the next auction coming up how many properties would fall within the purview of this particular bill?

MR. KENT:

I don't have the number right offhand. But if I could -- last year, we had a number of parcels that were going to be offered or that were available to be offered at auction in this area. We received a letter from town with a resolution that asked for a number of parcels to be pulled back for their visioning process, which we did -- we did that last year, we held them back. And this has been going on for a number of years where they've been asking us to hold back parcels.

We are willing -- we were told that we were going to receive a report from their visioning process by the end of March, and I'm not sure if Affordable Housing has received that report, I have not. But if they would like another year that we don't offer properties in this area, that might be another option. We'll identify the parcels that would be available for auction this year, and I'd be glad to give them to the committee at the next meeting if you want -- if you want that information before you make a decision.

CHAIRMAN D'AMARO:

I appreciate that. I would prefer -- my recommendation to the committee -- of course, it's up to the committee to decide -- would be to discharge this without recommendation to improve the Whereas Clause. I am actually in favor of the policy in the First Resolved Clause that would impose -- the First and Second Resolved Clause that would impose the ten year owner-occupancy requirement. Just from my prior life as a zoning chair, we did that in the usual course of business with many, many thousands, I would say, zoning approvals in the Town of Babylon, whether it was construction or whether it was someone coming and seeking two family use or that type of thing or extensions. If you want put an extension on your home, we'd say, sure, you can do that, you can exceed the code requirements, but at the same time you are going to agree in perpetuity that the house shall remain owner-occupied.

It is a very effective tool for a locality to use in order to enhance a neighborhood in my opinion. And I am particularly pleased that the sponsor is also being realistic in proposing that it only applied to the next auction. If nothing else, it kind of gives us a shot to take a look at the effect on the auction. And I would rather slightly diminish the outcome of that auction to enhance the particular policy of encouraging owner-occupancy in this area then the other way around. So I would support the legislation. I would prefer to just discharge without recommendation, make the change to the Whereas Clause and bring it to a vote.

LEG. ALDEN:

Mr. Chair.

CHAIRMAN D'AMARO:

Yes. Legislator Alden.

LEG. ALDEN:

Through the Chair, Mr. Kent, how many more parcels will be available to auction off by the County in the next two or three years, because I know there's a time process where we allow property to be redeemed and that type of action? Do you have any idea, like in this area, are there other ones that are going to phase in over the next two or three years?

MR. KENT:

This area tends to be -- the County takes ownership of a lot of parcels in this area. People don't pay their taxes on vacant land, there are no streets -- it's mostly paper streets in this area -- a lot of paper streets in this area. So people stop their paying taxes.

What we're trying to do in this area is assemble a lot of small tracks of land into larger tracks of land and offer them for sale. I agree with Legislator D'Amaro that this -- this restriction that we're adding for this year will encourage owner-occupancy, and maybe this is a way of being able to receive some proceeds rather than just turning it over to the town and receiving no proceeds. I mean, but that remains to be seen. I will still have to make an amendment to the rules if you adopt this to provide for this restriction on these properties.

LEG. ALDEN:

I think my point would be that I prefer --

MR. KENT:

I don't know the number of parcels off the top of my head.

LEG. ALDEN:

But I would prefer to see a more global solution to the problem, because if we're going to face this problem next year, the year after and the year after, and, you know, this is, like, four or five pieces of a puzzle, then next year we have another four or five pieces of the same puzzle, and then next year we have another five or ten in the same area, we're not accomplishing much by -- by doing a one shot like this.

MR. KENT:

I think that's taken up in the First Whereas Clause, because really what they're looking to is just extend the time so that they can complete their visioning process that they're engaged in. I had thought that would have been done by now, but they continue it. So hopefully down the road they will have some idea of what they want to do with these parcels that are owned by the County.

CHAIRMAN D'AMARO:

Okay? Is there anyone else that would like to chime in? All right. I'm going to offer then based on prior comments a motion to discharge Resolution 1298-2008 without recommendations to permit changes detailed by Mr. Kent in the First Whereas Clause.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed?

LEG. ALDEN:

Abstain.

CHAIRMAN D'AMARO:

One abstention, Legislator Alden. The resolution carries. **DISCHARGED WITHOUT RECOMMENDATION. (VOTE: 4-0-1-0 - Abstentions; Legis. Alden).**

1315, Adopting Local Law No. 2008, A Charter Law to make the County's leasing process open, competitive and accountable. (Beedenbender)

The sponsor is here with us today, Legislator Beedenbender.

LEG. BEEDENBENDER:

The public hearing isn't closed, so motion to table.

CHAIRMAN D'AMARO:

I'll second. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1324, Creating the Asset Evaluation Review Board for the sole purpose of soliciting and reviewing proposal for the sale/lease back of the H. Lee Dennison Building. (Romaine)

LEG. BEEDENBENDER:

Motion to table.

CHAIRMAN D'AMARO:

Motion to table by Legislator Beedenbender, I'll second. All in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1343, Adopting Local Law No. 2008, A Charter Law to change the Legislative term of office. (Cooper)

Public hearing is still open. I'll offer a motion to table.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Second by our Vice-Chair Legislator Beedenbender. All those in favor? Opposed? Abstentions? Motion carries. **TABLED (VOTE: 5-0-0-0).**

1344, Establishing health care benefits policy for Suffolk County Off-Track Betting Corporation. (Pres. Off.)

LEG. VILORIA-FISHER:

Motion to table.

CHAIRMAN D'AMARO:

Motion by Legislator Viloría-Fisher to table I'll second. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 5-0-0-0).

Section of VI of the agenda are Introductory Resolutions. I'll call the first.

1444, Authorizing certain technical corrections to Adopted Resolution No. 285-2008. (Co. Exec.)

I took a look at this. It seems like it's changing various clauses in the bill for -- to set straight the Legislative history of the bills referenced. It did seem technical in nature to me. I just want to double check with our Counsel and make sure Mr. Nolan agrees.

MR. NOLAN:

These are really not major changes to a prior resolution having to do with a capital project. This committee can act on it. I would suggest again to the County Executive's Office, as I have in the past, when it's -- when it's three, four, five changes, though, maybe just instead of terming it a technical correction, amend the prior resolution. This is an issue that's come up in the past.

CHAIRMAN D'AMARO:

Right. But procedurally how we do this is one thing, but do you as Counsel agree that they not substantive changes to the bill?

MR. NOLAN:

I agree.

CHAIRMAN D'AMARO:

Okay. All right. With that said, I will offer a motion to approve place on the Consent Calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions. Motion carries.

APPROVED and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0).**

1445, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Estate of Geraldine Coward by Carl T. Slater as administrator (SCTM No. 0100-039.00-02.00-001.000). (Co. Exec.)

This is a parcel located in the Town of Babylon, it's a 50 by 100, being redeemed as a matter of right. I'll offer a motion to approve and place on the Consent Calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Second by Legislator Beedenbender. All those in favor? Opposed? Abstentions? Motion carries.

APPROVED and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**

1446 (sic) (1450-2008), Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Joseph Philip Marcario and Marien Ronea Marcario, his wife (SCTM No. 0200-453.00-04.00-002.001). (Co. Exec.)

Once again, this is a Local Law 16 located in the Town of Brookhaven. I'll offer a motion to approve and place on the Consent Calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**[.|. |.]

LEG. BEEDENBENDER:

I think 1446 is the same name, but a different parcel. You skipped 1446, the tax map numbers.

CHAIRMAN D'AMARO:

Oh, did I?

LEG. BEEDENBENDER:

Yeah. The lot numbers were off.

CHAIRMAN D'AMARO:

I see. So we did 1445 and 1450. We did not do 1446. I'll call 1446 now of 2008.

1446, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Estate of Geraldine Coward by Carl T. Slater as administrator (SCTM No. 0100-039.00-02.00-002.000). (Co. Exec.)

Similar to the prior resolution, it's Town of Babylon, 50 by 100 as a matter of right. I'll offer a motion to approve, place on the Consent Calendar.

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **APPROVED** and placed on the **CONSENT CALENDAR (VOTE: 5-0-0-0)**.

1451, Authorizing the reduction of the purchase price for property sold at auction that subsequently was damaged by fire Purchaser: George Kuey (SCTM No. 0200-976.90-03.00-049.000). (Co. Exec.)

LEG. BEEDENBENDER:

I make a motion to table.

CHAIRMAN D'AMARO:

Okay. There's a motion to table by Legislator Beedenbender, I'll second the motion.

LEG. ALDEN:

On the motion.

CHAIRMAN D'AMARO:

On the motion, Legislator Alden.

LEG. ALDEN:

Can we just have an explanation of what happened?

MR. KENT:

This is was a property that had a habitable restrictive covenant, and it was sold at auction in 2007. Subsequent to the approval -- approving resolution to go forward with the closing, the property sustained tremendous fire damage, there was a fire at the residence.

We estimate the damage of the fire to be well in excess of 10% and also that the premises are no longer habitable. There is a provision in the rules that allows, if by agreement, to reduce the price by 10% and to go forward with the closing. So that's what we opted to do. We made the offer to the successful bidder, the successful bidder accepted the offer, and that's why -- but we need a new resolution approving the sale, because this was part of the exhibit to the resolution that approved the sale of all the auction parcels.

LEG. ALDEN:

How much was the auction bid?

MR. KENT:

Eighty five thousand

LEG. ALDEN:

and then it was reduced to how much?

MR. KENT:

Seventy thousand-five hundred, 10% reduction.

LEG. ALDEN:

Okay. Who did the estimate on the fire damage?

MR. KENT:

We had it done by appraisers. The damage -- the estimated cost of repairs are in the resolution, \$38,465.

CHAIRMAN D'AMARO:

Legislator Nowick.

LEG. NOWICK:

I just don't know what we're tabling it for. Are we going to wait for something else? It sounds like everything is in order, unless that's my --

CHAIRMAN D'AMARO:

I can address that.

LEG. NOWICK:

Something is missing?

LEG. BEEDENBENDER:

I was just going to say -- my question to Mr. Kent was going to be, do we have any question about the nature of the fire?

MR. KENT:

I have a report on the fire. Yes, I do have some information about it.

LEG. BEEDENBENDER:

A report from whom?

MR. KENT:

From the Fire Inspectors, yes.

LEG. BEEDENBENDER:

And does that report indicate any concern that this was not an accident.

MR. KENT:

Is does, but they don't have any reason to believe that anybody who's involved with this transaction has anything to do with it.

LEG. BEEDENBENDER:

Okay. My concern -- that had been brought to my attention. I didn't have what have you just shared with me. But why do you remove the owner-occupancy, because the house is not really liveable anymore?

MR. KENT:

It was completely -- it's been damaged to a great extent.

LEG. BEEDENBENDER:

But shouldn't that remain for whatever they put on top? Because if he's still buying the property, presumably he's going to condemn and build -- put something else on it. So shouldn't that remain with whatever the next --

MR. KENT:

We only put owner-occupancy restrictions on properties that are habitable at the time we sell them at auction.

CHAIRMAN D'AMARO:

Well, I would much prefer the resolution to say that owner-occupancy restrictions shall be unenforced or lifted during the time in which the premises are not habitable and keep the restriction there. I'm not prepared to vote for this lifting the restriction. So in my mind, you know, you buy a house at auction, it burns, you bought it knowing subject to the deed restriction, it burns for whatever reason, you save some money, you rebuild it, and now there's no deed restriction. I don't -- that is not logical to me frankly. So I would be prepared to waive the deed restriction during the time of reconstruction, but not in perpetuity.

MR. KENT:

I don't think there will be anybody living at the place during the time of reconstruction.

CHAIRMAN D'AMARO:

I didn't say that, Mr. Kent. You need to listen to what I'm saying.

MR. KENT:

I'm listening. You said --

CHAIRMAN D'AMARO:

I did not say that someone would be living there during the reconstruction. I never say that. I didn't imply it.

MR. KENT:

I didn't say that you said it, but you said to lift the deed restriction during the time of reconstruction.

CHAIRMAN D'AMARO:

Well, you implied that I said it.

MR. KENT:

Well, if we have a deed restriction, we'll make it similar to the one that on the -- pursuant to the other resolution that the deed restrictions would come into place at the time that the Certificate of Occupancy is issued.

CHAIRMAN D'AMARO:

Right. That was my point. Yes. Legislators Alden.

LEG. ALDEN:

Where is this property? 0200 is Southampton?

MR. KENT:

No. Brookhaven. It's in the Mastic area.

LEG. ALDEN:

All right. So that's covered by the Police District. Suffolk County Arson Squad is investigating or no?

MR. KENT:

They have already investigated. I believe they have reason to believe that there was a suspicious fire, but they are narrowing down to who they believe -- I don't want to go into it too deeply because this is a public forum, but they have some reason to believe that they know who did -- who committed the arson.

LEG. ALDEN:

So it's an active open investigation at this point.

MR. KENT:

It's an open active investigation.

CHAIRMAN D'AMARO:

Okay. Was there a motion to table? Yes, there was and I seconded the motion. If there's no other discussion, I'll call the vote. All in favor? Opposed? Abstentions? Motion carries.

TABLED (VOTE: 5-0-0-0).

1452, Authorizing the sale, pursuant to Local Law 16-1976, of real property acquired under Section 46 of the Suffolk County Tax Act Estate of James E. Berdinka a/k/a James E. Berdinka, Sr., by Cathy M. Ramsey as administrator (SCTM No. 1000-122.00-02.00-016.000). (Co. Exec.)

This property is located Southold redeemable as a matter of right. I'll offer motion to approve --

LEG. BEEDENBENDER:

Second.

CHAIRMAN D'AMARO:

--and place on the Consent Calendar, seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions. Motion carries. **(VOTE: 5-0-0-0).**

1470, Appointing member to Suffolk County Off-Track Betting Corporation Board of Directors (Eddie S. Wynn). (Lindsay)

Mr. Wynn, I believe, is here today. Mr. Wynn, if you would please come up and have a seat at the table. And I apologize for not taking this resolution out of order. I was reminded 15 times to do so, and I forgot. You have my sincere apologies for that. Thank you for your patience. I'd like to welcome you this morning to the Ways and Means Committee.

A resolution has been submitted by our Presiding Officer to appoint you as a Director of the Suffolk County Off-Track Betting Corporation here in Suffolk County. And I'd like to invite you to make any opening remarks if you so choose.

MR. WYNN:

I just would like to thank --

CHAIRMAN D'AMARO:

Can you speak right into that microphone for me, sir. Make sure it's on.

MR. WYNN:

I'd just like to thank the Chair and the Committee for considering me for this position. And I hope I can assist the president and the vice-president and the directors of OTB in increasing their revenue, because it appears if we can put money back in the County, we can assist the Board of Elections with their problems.

CHAIRMAN D'AMARO:

Good point. You may or may not know we had the Director of OTB here last meeting, Mr. Casale, talking to us about -- you know, telling us, in effect, the more we help OTB, the more revenue then comes to Suffolk County. It is a revenue source for the County of Suffolk.

Mr. Wynn, I want to invite you just to address any issues of concern or any issues at all you may have coming on to the Board of Directors of OTB here in Suffolk County. What do you see as the primary issues facing that board at this time? Any thoughts on that?

MR. WYNN:

I know in speaking with Jeff that it appears revenue is down from previous years. And he had spoke about, naturally, the economy, gas and things like that. But it appears that the board seems to be coming up ideas of how to continue to get more people into into the Off-Track Betting booths.

CHAIRMAN D'AMARO:

Right. And you are committed to working as a board member towards that goal?

MR. WYNN:

Exactly.

CHAIRMAN D'AMARO:

And what about the internal workings of the board itself? There's been issues that I've addressed sitting here along with my colleagues concerning things like health insurance and policies for the board and for OTB? Any thoughts? Are you aware of that, and do you have any thoughts on that?

MR. WYNN:

No, I don't it. It appears that they seem to have that taken care of, so -- but I hasn't been privy to too many things. I know there was a problem, but I think it's basically been resolved.

CHAIRMAN D'AMARO:

All right. Are there any questions? Yes. Legislator Alden and then Legislator Nowick.

LEG. ALDEN:

Thanks for coming down and thanks for sitting through that. So the first question would be now that you've seen how government can act, and there will be requirements of your time, do you have enough time to devote to your duties.

MR. WYNN:

Yes, I do. I formally worked -- actually I'm still on the payroll, but I think that stops June 17th. I was Supervisor with Expo Design, which is Home Depot. They sort of eliminated Expo -- Home Depot like Loew's.

LEG. ALDEN:

That's private industry. I was getting scared. I though you were going to say Superintendent of Schools or something along those lines.

MR. WYNN:

I am on the Planning Board in the Town of Babylon, so I do see the public every Monday. So I'm retired, so I do have the time.

LEG. ALDEN:

Okay. And just one other question. Morally, you don't have a problem with people betting?

MR. WYNN:

No, I don't. Unfortunately, I bet myself.

LEG. ALDEN:

You didn't have to say that, but that's all right. Thanks for coming down.

CHAIRMAN D'AMARO:

Legislator Alden is just looking for a tip if you have one.

LEG. ALDEN:

Thanks for coming down.

CHAIRMAN D'AMARO:

Legislator Nowick, before I get to you, just very quickly, you know, Mr. Wynn, maybe it would just help the committee if you would just tell us a little bit about your background; where you are working or what your profession may be or what industry you work in, that type of thing.

MR. WYNN:

I spent over 12 years with Expo Design and working -- they have a trade union, what they call -- it's trade. It's very similar to the pro shop in the regular depots. I supervised two designers, five outside salespeople, three inside salespeople. And what we do, we try to encourage designers to come in with their client's layouts of kitchen, bath or whole house, and our designers completely do the layout for them, under trade, it's free, show them exactly what they would need and give them a ballpark figure of the cost of it. I've been doing that for actually about five years, but I've been with Expo for 12.

CHAIRMAN D'AMARO:

Legislator Nowick.

LEG. NOWICK:

Thank you for coming in, Mr. Wynn. One of the comments that you made, I heard you say that within OTB you were hoping that there are things that could be done to save money and to actually make more money for the County. Just to remind you, what we had heard from Casale and the vice president, Marietta Seaman, was that one of the important things is that State, I believe, four years ago started taking more of a percentage of the wages. And I think that that is really hurting them.

And to the credit of the president and the vice-president, they have really, from what I've seen, streamlined OTB, done everything they can do to make it more efficient and to -- literally it runs itself without costing us money. And we do get money, but it's just been cut back because of the State, and I think that's what we as Legislators are trying to, let's say, persuade or encourage our State Representatives to help us out. That's a big thing. And also, those video lottery terminals would help us a lot. And since you have nothing against wagering, this is good for us. So I just wanted to bring that also to your attention.

CHAIRMAN D'AMARO:

Okay. Thank you, Legislator Nowick. Those are extremely important points. You know, as a director making policy for OTB, of course one of your primary responsibilities is to enhance the revenue to OTB. Mr. Casale went into great detail last time he was here about that. And we would hope that you would assist him in those efforts as well. And we appreciate that. Do you have something?

LEG. BEEDENBENDER:

No. I was just going to make the motion.

CHAIRMAN D'AMARO:

All right. Is there anyone else who would like to be heard on this particular resolution? If not, Legislator Beedenbender.

LEG. BEEDENBENDER:

Motion to approve.

CHAIRMAN D'AMARO:

Motion to approve, seconded by Legislator Vilorio-Fisher. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries unanimously. **APPROVED (VOTE: 5-0-0-0).**

Mr. Wynn, the committee has now passed your proposed appointment up to the full Legislature. It will be voted on at our Tuesday meeting. There is no need for you to appear at a meeting. Thank you, sir.

MR. WYNN:

Thank you very much.

CHAIRMAN D'AMARO:

1472, Authorizing the reconveyance of County-owned real estate pursuant to Section 215, New York State County Law to Fred C. Smith, III and Ann M. Smith. (Kennedy)

This is a resolution, Section 215, it is a reconveyance of property based on a -- I guess, a medically related rationalization for doing this. That backup was all made available to the committee members as part of the bill. I want to just point out that in these 215s, of course, although we reconveying the property back to the owner, the County is being made whole with taxes, interest and penalties. And in this particular case, it was supported by a doctor's letter confirming the medical contingency. I'm prepared to support it, but I'll leave that up to the committee. I'll offer a motion to approve.

LEG. BEEDENBENDER:

Second.

LEG. NOWICK:

Second.

CHAIRMAN D'AMARO:

Seconded by Legislator Nowick.

LEG. ALDEN:

Quickly on the motion.

CHAIRMAN D'AMARO:

On the motion, Legislator Alden.

LEG. ALDEN:

The reason why we have to put it on the record is that there's only tight very narrow criteria because we were sued by a former Comptroller on these. So in our Legislative Counsel's estimation, is it you that makes the call, George?

MR. NOLAN:

I review all of the 215 applications to see that they fit within Chapter 27 perimeters for a redemption. And this under the medical.

LEG. ALDEN:
This is in there.

MR. NOLAN:
Yes.

CHAIRMAN D'AMARO:
Yes. Legislator Nowick.

LEG. NOWICK:
And I seconded this. And I don't take these things lightly, but having sat in the Tax Receiver's Office, I know there are some very, very good reasons for doing things like this.

CHAIRMAN D'AMARO:
And I also want to note for the record --

LEG. NOWICK:
And we've talked about this.

CHAIRMAN D'AMARO:
Yes. I agree with you. And I also note for the record on this and the next resolution based on the backup submitted with the bill that it seems as though once the properties are reconveyed that they're in contract to be sold. So we're putting them back on the tax roles, in effect not only are we being made whole, but we're also putting them back on the tax roles. Something to consider. All right. There is a motion pending to approve 1472-2008. The motion has received a second. I'll call the vote. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

1473, Authorizing the reconveyance of County-owned real estate pursuant to Section 215, New York State County Law to Carol Haas, as surviving tenant by the entirety. (Schneiderman)

CHAIRMAN D'AMARO:
This is property located in Southampton. Again, all of the backup has been submitted with the bill to reconvey the property. I have, myself, reviewed that and found it to be sufficient and warranted. I intend to support it. I also note for the record there is -- it seems to be that the contract is in property -- the property is in contract to be sold to put it back on to the tax roles. So I'll offer a motion to approve.

LEG. BEEDENBENDER:
Second.

CHAIRMAN D'AMARO:
Seconded by Legislator Beedenbender. All in favor? Opposed? Abstentions? Motion carries. **APPROVED (VOTE: 5-0-0-0).**

There being no other business before the committee, I'll offer a motion to adjourn, second by our Vice-Chair Legislator Beedenbender. We're adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 12:11 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY

